

# **Public Policy and Governance : Some Thoughts on Its Elements**

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# Chapter I. Democracy and Governance

## 1. Overview

As the word *demos* denotes, the democracy is generally considered as the rule or governance based on the general base of people in which monarchy or oligarchy form is excluded. We have a classical view about the four forms of government, which was proposed by Platonic concepts. Most idealistic form of government, in his prongs, could be found in Crete and Sparta, which was nevertheless not a democratic form. His accolade of these two nations, which, of course, would be a kind of God's product so to be most benevolent, humanly appealing, efficient and philanthropic. This means the democratic form of government is not best, but most favored alternative to police the society. The political terms, henceforth, would supervene the concept of democracy, and, for many reasons and on historical wake, democracy is generally accepted as practically most desired form of rule or governance. While some modern scholar revealed, a mini-republic can be a niche to contest the merits of various forms of governance. We can gauge a scope of elements we value through the governance process, human intrinsic, efficiency, equality, welfare and even individual happiness. As the time is a small city community, called a polis, in Plato and Socrates, a mini republic can be well envisaged in understanding the Platonic Republic. In that case, most benevolent ruler may be superior to any other form of governance, which can be a philosopher's Republic. The ideal ruler would behave and govern with mighty intelligence and concomitant power to rule. It is idealistic to produce maximum happiness of polis constituents. The worst contrast, however, a tyranny, comes that the constituents legitimately expel their ruler by a collective vote. This extreme contrast and the way of process also could be ascertained in the ancient form of oriental monarchy. The dynasty could be legitimately revoked to restore new heritage of emperor or Kings where a kind of rebellion, as elucidated by Locke, is well justified in the name of heaven's command. Given the size of polis or governed territory, there are separate ways to redress the evils of tyranny while the Oriental culture has not recognized the kind of formal vote methods. Any means to expel the tyranny could be embraced to rebel.

For our purpose of grasp, I wish to theorize three concepts to be applied to each of context where the forms of rule are needed. The rule of society may be said as governance, which is most comprehensive and flexible form of understanding when we talk about the democratic theory and its rule of system. Democratic governance can occur in every organization covering private and public organization. The concept of governance is made broader, and contemporary times require more extensive focus given the rigid nature of national or state government being over long time placed stable. These times, international organization and NGOs receives a wide public attention where we can hardly call them as exact form of traditional government. We actually seldom call the international organizations, such as UN or WTO, as international government, however, their role in these times increasingly turned important. The technology development, especially communicative tools, such as internet or iPod, also created a unique community of massively cyber nature, and the concept of governance generally becomes starker other than that of government. Those two concepts can be generally distinguished from the point of any physical force to enforce their value, institutions or official system. One other concept would be a powerment, which is not normally communicated. This is most idealistic form of status if all elements are resolved perfectly to hollowing out of any conflicts within a political community. If one of basic

attributes within the human creature is termed political or power-oriented, the powerment has a perfect bridge to address the fundamental dilemma in the political community. Within the community of powerment, no physical force is necessary to curb, police, defend or struggle. As in the Platonic Idea, the members of community or organization have a same identification or perfect affiliation with their benevolent philosopher's King who have a power to constructively interact. They rule themselves and others on the same plane of intelligence and values. The concept, however, is hypothetical, extremely idealistic, non-hierarchical or egalitarian in nature, but over various levels of organization through even the individual self-dom. If we are exposed to practical variety of institutions including bureaucracy or different distributive system, the powerment would be normally not achieved in any practical context. This idea, however, can be applied in the kind of empowerment leadership within small unit of organization and others.

For the modern civilian democracy, the excessive tax pressure on the rising power class of society offers a cause to structure still enduring understanding of democratic rule. Other than plebiscite, they chose to revolutionize, by physical force in one case, or in a glorious way to counter, their ruler, which could bring a different methods of government. In Britain, Sir Edmund Burke deplored the collapse of medieval tradition in such harsh way of cruel process or violence in France. On the progress, however, the French revolution push forward its way to evangelicalize their sacredness of revolution over other European states. Its commission, however, was fairly moderated, and largely meek to totally eradicate the European tradition on monarchy. That would be well contrasted to the case of US where the popular revolution forged its way to constitute a new government named United States. One other extremes on the scientific eyesight and dialectics covering the large of human, social, historical, economic, political subjects vindicated the unavoidable prediction of the working class revolution. This jettisons an existing structure of democracy or governance as an upper structure to certainly fall, which is an edifice just to make up and raises a false consciousness within the constituents. His prediction was realized in several underdeveloped countries, which are not in comport with his proposition given his precepts of most enhanced level of capitalism and its affinity of revolutionizing condition. In this way, I understand that the contemporary democratic government has three strands on its nature and extent to the society. Most extensive on the society and community would be the communist regime and its way of democratic rule. Moderate and balanced are the states of developed western European states to have a poise between the extreme individualism and social justice. There would be a perfect libertarian adherent, which would not normally be found in practical context of contemporary government. In this case, the individual may even prefer a form of anarchy as a mode of government. While being furthered as later shortly, the political economy in modern capitalistic society sharpened the way of statecraft and different perspectives on our way of lives. If the communists think any merits of power within human intrinsic or a kind of powerment, We would not be sure if the working class are as powerful as any other their companion as theoretically purported. Does it truly reflect us by saying a perfect nature of human wholeness by merely stressing a power and economic justice? The western democracy criticized since they largely disregard the one of our fundamentals on opportunity and incentive. The eastern communist states countered that there is the nature of exploitation detached from the true elements of humanity. Their view is that capitalistic minds and concepts just serve to accumulate the capital itself. They tend to be repentant about any extreme assumption in some context to revise their way of progress.

This brief description needs to be looked into in other angles of democratic theory, in which we can have some of elements about the human nature. One is the liberalism and the

other is conservatism. They are two basic perceptions that the westerners approach the humanity and also offered a strong tradition as an analytical tool of democracy. Liberalism generally assumes that man is reasonable, independent, emotionally broad, creative, equal. This assumption was revolutionarily supported over the enlightenment ages and remarkable economic progress. Perhaps, it cherished the idea, "Let them be alone, and man can achieve it." One other fundament on western tradition would be a conservatism, which whispers a frugality, Christianity model of ethics and morality, fidelity and loyalty, and others. These two theories are generally combined to address the nature of humanity, state, and western political community. Then, we are reasonable and competent, and ethical to obey our community including the state or government. This carved our minds about the strong government and economic prosperity which is a ideal figuration of ourselves and our surroundings.

This basics turned to incarnate themselves under the 1980's and 1990's in the US politics, which we normally title as neo-liberalism and neo-conservatism. The theory may be a theory itself, and their impact on contemporary governance on the US community is fairly serious to distort the prototype of understanding of 20<sup>th</sup> US democracy. They reshape the understanding and ways of daily lives very fundamentally, which de politicize and flatten many sensitive issues long analyzed and evaluated on the American intrinsic of democratic value. They are driven, and even forced or compelled to accept in any way to reveal it a kind of nightmare. Settled understanding and receipt of political process and values had been on sway, or in some cases citizens should find themselves be under much more governance, which is paradoxical if the words are true. Business rule became omnipotent over privatization, efficiency or productivity-driven, or unlimited competitiveness or the kind. The law, normally respected or as a political promise, was treated as just tactical. It can increase an appealing power to invoke a religion to propaganda their way of rulings and mode of governance.

One other powerful theory of democracy would be realism, which flourishes in the British and American circle of political scientists. A criticism from the British realism also appears to stand on this way of approach. The political realism, as proposed by Carr and others, employs the analytical tools of power centrism and western morals. In the course of analysis and evaluation, they importantly focus on the historical evolution of political community. As power centered, the moral aspect is of secondary elements to be theoretically engrafted in explaining and understanding the issues. In the context of contemporary governance, the debate on realism and neo-realism concerning the construction of European Union is interesting. Carr's disciple seriously questions a misapplication of neo-realism by US circles. Their version spotted many points of misunderstanding distorting a healthy form of realist understanding, and ahistorical with false or perfunctory assumption about the true nature of EU politics. The neorealist from US circle usually propounds the merits of federal union in European continent, while the British realism would go more in depth based on history and wake of lessons. One other illustration is a consensus system in making a resolution about the issues and agenda presented to the international organizations. The majority rule, normally upheld by the democratic theory, would not work in the international context. There is also less intense discussion or desirable degree of understanding by many waivers of democratic process. The deliberative democracy, which is now universal over the western minds, would be less powerful in this context. It could likely be a primitive form of classic democracy. So there could be many theories to offer a tool for governance or government. However, the practical elements also play to produce a variegated form of governance. The nature of organization, size of it, and institutional wisdom or historical lessons would probably define, in other complements, the paradigm of governance.

## **2. Jean-Jacques Rousseau as a Democracy Theorist**

### **2-1. Jean-Jacques Rousseau as a Democracy Theorist**

While we trace a classic discussion about the democracy long back to the age of Greek times, the realities on democratic tradition may be more properly paired to modern thinkers. The theory of modern thinkers would be a product coming over the endured system of absolute power, sovereignty concept, economic growth, and human enlightenment. This point helps to distinguish them from a pure theory of politics as found in the platonic Republic and Socrates dialogue (Plato. n.d., 1901). It enables, therefore, to bring them for understanding more easily on the contemporary discourse of democracy. If we lead our contemplation on very basic function of production and consumption, the modern thinkers of democracy normally represent the bourgeois class, who were major engineers to respond to the materialistic needs. They were a kind of revolutionary theorists in their times if they argue against the prevailing powers, i.e., monarchy or Catholic dominion. Their ideas availed of new subscription to the rising social class, which were eye-catching and essentials to bring a social change in the fundamental context. An absolute monarchy could be seen an impediment, or should certainly be one of eclectics in moderate tense. *Ancien regime* was never such idealistic as the philosopher's republic, but would be realistically justifiable if to be transformed tangibly from any reaction of the legitimate class of society. Therefore, I like to introduce Jean Jacques Rousseau as one of theorists, who is allegedly to lay the foundation for the modern democracy. In the course of summary, however, I rely on the tentative three key planes covering the state, political and social. This introduction should be reserved to epitomize on the generalization purpose setting aside the jumbles of varied practicalities which is inextricable, in nature, within any theory or principle.

### **2-2. Rousseau and General Will of the People**

Rousseau's perception and understanding about the idealistic state arises from the general will of people. It is most sublime and may not necessarily counter-pose then the absolute power of monarchy or the Holy Roman Empire. The latter two also bears a close conceptual gate with the general good of people. They represented the God's sake or secular actualization of it's might, but could be translated into the ideal identification with the subjects they ruled. They should entertain an absolute sovereignty or supreme authority in the name of Creator, but they could compromise with the subject in any ethical or conceptual ways. This same identification is also found in the oriental monarchy and feudalism. The difference should be noted, however, who was the supreme being of land or state, and whose will could preempt those of the contras. On this point, Rousseau sharply departed from Jean Bodin's concept about an absolute monarchy, who should be an owner of state, and God's land representative. His concept about the democracy and general will of people is fundamental in nature to see the top-down perversion. People are collectively supreme, whose will govern the state. The "state" sovereignty is immutable over two contrasting viewpoints, but the dynamics of "politic" revolutionarily overhauled the prevailing understanding. An "social" aspect was less detailed in Rousseau, yet to have opened the way to diversity by recognizing the people not as a subject but an independent rational actor. His theory contributed much to the social contract adherents, and offered the basic frame of

modern democratic paradigm. Over the course of French and American revolution, his beliefs played a pivotal role as a spiritual pillar for the might of general people in leadership and action.

### **2-3. Influence and Criticism**

There are several complementary or adverse responses to his discourse. As we read, it may be argued that the contractarian theory falls insufficient to fully understand the substantiated context of American constitutionalism (Levy, J., 2009). For the deliberative democracy, the concept may offer no practical utility, but often rests within a symbolic point of revisiting. It may well be conducive to the idea of plebiscite, and practical elevation through the democratic process over the period of time may get on other aspect. For those, the deliberative rhetoric, as in Chambers, needs to serve a process of democracy, which can refine to strip a general tendency of plebiscite rhetoric (Chambers, S., 2009).

Rousseau's idea could be adapted to the totalitarian form of modern democracy, and also offered the basis for any liberalistic constitutional state. This dual service plainly evidences its formalistic and theoretical feature in his essence of proposition. Again, his idea may be subject to criticism if any kinds of absolutism may attain its power over the evolution of political theory. For example, the criticism on the neo-liberalism and neo-conservatism can be understood to shed this aspect. Brown argued on the problematic to deviate the American public, who had long been already tested and independent social beings with some of benefited grace from the democratic values (Brown, W., 2006). In his beliefs, they are ahistorical against the value system of democracy and undermine the critical understanding of democracy in established political terms. Their impact has been actually significant and turned to be a prevailing edifice to govern our ways of life (Brown, W., 2006). In some aspect, these two theories served depoliticizing the democratic issues, and diversity or social communication could be seriously interrupted or misled. It could attain a prevailing power to level with the kind of totalitarian nature to incur massive governance on the American individual. They can also be viewed totalitarian to forge their belief by adhering on the market and strong state power. Within the troikas of "state, politics and social," the social should be far distanced and deracinated or in the least, perturbed an embedded easy way for any figurative mode of democratic livings. Neoliberal beliefs would prevail like the general will of people and could dominate the politics to raise a skepticism as a matter of political theory. If the religious mixture was invoked to fortify its merits, the situation might get worse.

Then, Rousseau's idea is testamentary enabling to see the essence of political transformation, and offers a profound reshaping in terms of sovereign entity about the "state and politics." Along with Hobbes and Locke, his theory also entailed the ideal framework of social contract, in which, however, the former two were not clear about the sovereign being or monarch (Uzgalis, W., 2007). Still the British traditions adopt a constitutional monarchy where the monarch is considered a symbol of state. This is in some contrast with the French and American system where the people normally are translated into the state in any sovereignty or supremacy conceptualization. That is plausible even if, in Lowenstein's viewpoint, we can know the attribution of American presidency as a modern type of emperor. While his views of democracy may get easily and blankly adapt with the communist democracy because of its exorbitant nature as a pure theory, his flattening on many keen issues concerning the democratic value leaves much following works or critical ways of meditation for the modern democratic theorists. Illinois and Yale scholar's approach can be inferred to show the difficulty of common understanding about the concept of democracy by

shoveling the major points of agreement and disagreement (Ranney, A., & Kendall, W., 1951). There would be very limited tenets which we can absolutely share in defining the democracy (Ranney, A., & Kendall, W., 1951). Rousseau's can be one of few tenets to survive if we still see the people as sovereign.

## **2-4. American Constitution, Influence with the Compounded Elements**

One of significant progress in the common spirit with Rousseau's would be an American Revolution and ratification of US constitution. It is significant in two ways where one is its practical implications with the advent of now world leading state. The other goes with its theoretical influence for new paradigm of the people's state. The preamble of US constitution plainly shows this sea change through the "state, politics, and social." The leading words "We the people" had not normally been used before the birth of constitution. If any welfare of monarchs or ruling class of feudal hierarchy might be acclaimed, there would perhaps no words "welfare of people." Other influences would come from the civil theorists like John Locke or Montesquieu. Lockean idea of rebellion or regicide would offer a spiritual foundation to revolutionize the colonial states from the British imperial rules (Uzgalis, W., 2007). The concept of higher laws and fundamental liberty developed then far also served to lay the framework of US constitution (Uzgalis, W., 2007). While one author pointed out that the King in US is law while the King of France is Louis XIV, it accurately reflects the nature of US constitutionalism (Levy, J., 2009). The final interpreter of US constitution effectively rules to outlaw any unconstitutional statute which the congress or state legislature enacted. There is still ongoing debate about the anti-majoritarian difficulty from judicial review, but it now became a firm case law which no body or institution could respect, in the least, for the case at bar. If any abstract nature of controversy can be final at dispute, the sayings of court could be some of the definitive bearing any political meaning. This aspect compounded the Rousseau's idea with the common law tradition in influencing the US politics. Montesquieu thesis about the tripartite system of government is one other spiritual force to check against the arbitrary exercise of power. His thesis blurs the Rousseau's proposition by imploring on the virtue of separation of powers. Other point of consideration to look into the constitutional democracy in US would be the work of founding fathers, as proposed by the federalist papers. Their view also is tactical and instrumental to shape the federal union in the new continent. For example, there had been no words since before as like "federal supremacy" if they talked about the sovereign beings or state sovereignty. There had been no word like the "senate" if they cherished the parliament as loyal to the monarch. With the institution of senate in US constitution, Rousseau's basics on the head count would diminish. Beyond other criticism on or new adaptation to Rousseau's, the context of US constitution had modified his theory, which institutionally and practically needed to address the statecraft of new republic.

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## **Chapter II Law, Public Policy and Contemporary Governance**

### **1. A Synopsis on the Law and Public Policy**

We subsist under the law where we claim our rights and obliged to do something enforced. What is a law? The question would be perplexing in history, and one of crucial themes with many lawyers or legal philosophers. As we know, two most important perspectives had earned a universal and historical forge in academics, to say, the natural law and legal positivism. The concept of natural law deals in its primacy for the humanity and natural order which often can be traded as something inviolable or inalienable (Maritain, J. & William S., 2001). The concept has strands in several aspects; (i) its anchor with the civil democratic revolution around 17 and 18 centuries (ii) its supremacy with the new constitutional states (iii) less quality as a realist law from ambiguities and lack of clear definition. For example, the sanctity of property right, freedom of contract, prohibition of ex post law, self incrimination, and others may qualify for or originate from the natural law. The natural law theory provided the spirit and ground of US constitution, and generally considered to be entwined with the higher law concept, as in the case of Blackstone. The judicial review could be instituted on this philosophy or thoughts, but the Supreme Court in the *Ex Parte McCardle* repudiated the legal force of natural law in the real and concrete context of judicial business. However, it still is envisaged as idealistic and considered to be a prototype of justice in aspects of social intelligence. The legal positivists delve onto the basis of legal norms or their effect in the political community. In their case, they look most importantly at the state norms, hence, the political community often retracted, in concept, into a specific state or polity in order. The international community, in this purview, may lack a quality that the norms could be addressed in the coherence and system. However, a cosmopolitan concept of positivist theory, as we see in Raz, can bode prongs and intellectual consistence to explain the dynamism of international hard and soft laws. The legal positivists generally recourse the source of laws from the *Grundnorm* in the case of Kelsen or sovereign being as presumed by Austin. Hart's view and theoretical frame for the three phases of norms and ground for their legal effect are notable to penetrate most universally the current practice of laws in terms of the legal effect or source of law.

The concept of public policy may be related with the social justice, ethics and administration. It generally pursues a justice and desired state of public or community where the tension and conflict always exist between the ruling class and citizens (Harrington, C. B., & Carter, L. H., 2009; Kerwin, C. M. & Furlong, S.R., 2011). Historically, the public policy could be mightier to address the society than law where the benevolent Kings or Sovereigns liked to address both their needs and social justice. They may abrogate, more in endowment and divinity, the laws or social customs. The tension of public power and private interests could be one reason as well as offer a good dualism in understanding the rule of law concept and advent of modern democracy (2009; Federal Register Tutorial, 2014). In this dimension, the King would no longer be divine nor entitled to exercise a plenary power of state rule. Instead, the popular sovereignty in the US democracy or parliamentary one in the UK were to be established to resolve a feudal conflict within the class and society. Lighted to be in vein of influence could arise the two contexts which are a contractarian view and plutocracy desire of the founding fathers. They underlay the mood and philosophical ethos of US revolution.

Hence, three concepts as a pillar in private law were sanctified in the very foundation of US constitutional state, sanctity of property right, freedom of contract and due limits for the civil liability. The governmental power should be limited to protect the life and limb of citizens which addressed the Hobbes' evil, "war against all the rest." The due process concept was expressed as a fundamental principle of constitution where the human rights are inviolable and inalienable. The separation of powers principle could serve the freedom and wealth of new civil class in the continent, and bicameralism was devised for the check and balance within the federal congress. They see the role of judicial branch is important to preserve their civil interest.

## **2. A Relationship between the Law and Public Policy**

From the summary, we can derive some assumptions between the law and public policy. First, a law plays to protect the private interest while the public policy pursues the social justice and mediates the competing interests, "private v. private" and "public v. private." The civil courts may address a first nature of conflict and the law of takings or regulatory laws may deal with the second aspect. Second, the public or administrative law may shape a legal plane of bureaucracies or public administration, and guarantee the rule of law ideals (2009). It plays as an enabling authority and, on the other, monitors an arbitrariness and unfairness in the bureaucratic government. In this context, the unresponsive and unfathomable bureaucracy in the Kafka's could be remedied. Third, for the welfare state in the late 19th and 20th century, a law can well be seen as one of authoritative expression of public policy to redress the evils of capitalist states. Some public laws, such as the Sherman Act classically and Lanham Act recently, may act to regulate the monopoly or oligopoly while other laws were enacted to restore the justice between the labor and employers.

A relationship involved with the two concepts could be analyzed in response to the four basic forms of law, covering the statutes, common law, constitution and regulatory laws. The statutes in the common law country are generally limited in scope and subject matters. However, the public laws share a similar extent against the civil law countries in terms of state intervention or public regulation. That comes as a good point of comparison that the common law countries have no general statute on the civil matters. The common law is specific to resolve a concrete conflict while the laws generally are abstract and designed to be implemented within the command of statutes and discretion of bureaucrats. The public agency and administration may be subject to the judicial ruling which is an apparatus or system for the rule of law and considered as an essential component of liberal democracy (2009). The *Chevron* rule applies to respect a discretion of agency and the court often defers to the decision of agency unless the action or decree materially contravenes the provisions or undermines the intent of law-making authority. The Constitution is a supreme law of land and every level of public authorities are expected to be bound by it. The president and congress are not an exception. They act as an independent authority to interpret and execute the provisions and spirit of constitution (Federal Register Tutorial, 2014). The constitutional review often is conferred on the judicial branch in the normal or special line of judicial hierarchy depending on the national constitutional scheme. For example, US and Japan manage a unitary structure in three or four tiers of appeal system. The constitutional review is commissioned to the normal nature of national supreme court. That can be compared with Germany, France and South Korea where we can find an independent highest court exclusively committed to the constitutional review.

The policy makers or administrators are expected to honor the Constitution and execute their constitutional responsibility faithfully in response with its command and desirability. With respect to the law and public policy, one important tendency in the recent age lies within the delegation of law-making authority to the Executive. The policy makers or administrators in the Executive are no longer an agency merely to implement the laws, but often delegated with the power to enact regulatory laws. This phenomenon had once been questioned to violate the constitutional provisions, which spell out three branches of government and their constitutional authority. The rule of clarity and specificity may operate to legitimate a legislative delegation.

### **3.The Role of Administrative Law and Rulemaking**

#### **3-1. Some Comparative and Historical Sketch**

A relationship between the administrative law and rulemaking is symbiotic indeed, to structure the public lives of citizen as well as the politicians and bureaucrats. The administrative law could be broadly defined to encompass the statutes, judge-made laws and agency rules. In this purview, the administrative law epistemologically includes the rules of various nomenclature issued by the executive authorities, such as order, decree, rules, regulations and ordinances. In a narrow sense, perhaps more friendly to the intellectuals, the administrative law is designated as the statutes of congress enacted in compliance with the constitutional and other statutory or internal requirements of the House and Senate. From this viewpoint, the two sources of law can be distinguished in terms of law-making authority, foundation of legal effect, scope and quality as a norm, and practical dynamism through the final addresses of norm or public policy (Federal Register Tutorial, 2011; Harrington, C. B. & Carter, L. H., 2009). The administrative law springs from the congressional resolution, a political expression of public issues. In the US and general context of administrative law, the statutes in this scope had been limited and most typically had we been used to one statute, called APA, dealing with the nature of general procedural matters. The context would vary across the countries. For example, South Korea and perhaps a number of civil law countries are provided with the scope of general statutes, including the Administrative Litigation Act, Administrative Hearing Act on Cases and Controversies, Administrative Surrogate Enforcement Act. The titles of public laws dealing with the specific public issues, such as the national economy, culture, public health and environments, had been well equipped. Often this relative abundance of public statutes in these countries fuels a source of contention and disagreement in the international community about the trade liberalization. In comparison, we can note the trace of rules in history and through the contemporary government of US, which nowadays could rival in the number and scope about public intervention. This implies the substance of law and public policy now exist and is being enforced as less differently between both traditions of law despite their differences in formality. In this context, the roles of administrative law and rulemaking could be made distinct between two traditions.

The Administrative law took place more significantly in the civil law countries while the rulemaking of agencies would make practically more important impact in the US. There could exist many potentials of explicatory version about this subtlety. One reason might arise if the United States practices a federal system and its government operates within the stricture of three separated branches. Any obvious strength of rulemaking lies in its speed, efficacy

with expertise and bureaucratic experience, compact procedure, non-political and subject-scale directness. The small and unitary system of government could fully exploit these advantages without any legal hurdles and encumbrances. This context may well be void under the federal system and cost a century long lessons of history for the US case. Take the example in the course materials about the Department of Interior in the earlier years of rulemaking history (Kerwin, C. M. & Furlong, S.R., 2011). It perhaps would be confused with the role of Home ministry in the UK which has a plenary power to regulate under the delegation of parliament. Actually with respect to the federal system and dual sovereignty between the federal and state governments, the role of rulemaking could effectively be abridged to the limited scope and for its intrinsic role within the constitutional structure. This can be cast in other highlight about the foundation of federal union where the new wealthier class distrust with the strong government and less regulation or intervention were preferred to protect their wealth and interests (Maritain, J. & William S., 2001). Brownlow Committee and FDR's response also showed this dilemma who described the chaos or un-system of policy makers in the New Deal era, with words "headless fourth branch" (2011, p.11). This would be a cost payable to redress any repercussion from the feudal or arbitrary rule in the earlier ages.

The concern arose and fermented to restore the social justice, while the integration and powers of national government had steadily expanded through the late of 20 centuries. We often call the 1970's era of public rulemaking as epochal. Almost all statutes enacted with the public programs delegated a rulemaking authority to the agencies (2011). The separation of powers principle once provoked a dispute concerning the legitimacy of legislative delegation, which turned to settle within the kind of important principles, for example, regularity and predictability as provided by the 1946 APA. This means that the rule of law ideals positively resolved to shake hands with the national cause toward the social justice. This speaks for the formality and system to deal with an entrenched contention between the private interests and social justice. It would be same in spirit as to the kind of benevolent capitalism, occasionally touched by the donations and contributions of Bill Gates or Warren Buffet, but could be made distinct in nature. From this, we can infer another aspect of role which is substantial and econo-political. The roles of administrative law and rulemaking underscore the legitimacy of public intervention into the private sector and for the social justice. The subject matters of these norms would encompass the production and consumers, which range the regulation of monopoly or oligopoly, minimum wage, labor hours and standard, public health, environmental protection, commercial ads, misleading and unfair practices, price valorization, and so on.

### **3-2.Their Roles: Rule of Law and Modern Administrative State**

The role of Administrative law can be found in its paternal play for the rulemaking as we consider one APA provision, "[r]ule means the whole or part of an agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy" (2011). It grounds the plane that the agencies execute their powers and duties. As the Constitution binds, the president has the duty to faithfully execute the laws. A scope of constitutional powers other than this was prescribed in the Constitution. Nonetheless, the execution of laws clause would be one of traditional intrinsic historically and within the modern practice of constitutional state. Because of a strict hold with the

separation of powers principle, the kind of emergency power was not incorporated within the US constitution although the presidency of US often had been attributed as a modern replacement of feudal King. This is in contrast with other modern presidential system of democracies, such as France and South Korea in 1970's and 1980's. Even the Korean constitution enforced since 1987 spells out some of emergency power for the president to write the statutory laws as equal in status with the congressional act. This system have been absent in any expressive language and were deferred to the constitutional practice as we see in the Youngstown case involving the 1950 Korean wartime. In this light, we consider the execution of laws clause is fairly important in understanding the executive power within the US constitution. Then how could we define the laws enshrined in this provision? We may take an expansive view which includes the federal constitution, statutes, common laws and administrative rules. It does not outright reject an assumption that the president and agencies can make the rules necessary to carry their office. Consider the federal supremacy clause. This assumption would attain if there are no definite statement in the Constitution about the hierarchy of norms among the forms of federal law. The controversies questioning the constitutionality of judicial review, though founded in *Marbury v. Madison*, arose in the same structure of logic and metaphor between the administrative statutes and executive rules.

However, we may infer from our intuition and natural laws that the Constitution is supreme over other forms of federal law. Since the laws are the product of institution constitutionally created, they could not negate the mandate of constitution as a matter of nature. This logic can be applied to the relations between the APA and executive rules. The Congress was expressly conferred the power to legislate while the brother branch was described an authority for the execution of laws. They are co-equal and brothers from one father, namely the Constitution. I take a view that an express intent of constitutional drafters should prevail that no independent or contradictory rulemaking are to be legitimately disabled. This means that the administrative acts or illustratively the APA will govern and enable a rulemaking. In summary, APA will command source of laws (agency), subject matter of rules (law and policy), and scope of influence: implement, interpret, prescribe (2011).

The roles of rulemaking in public policy making are enormous in the contemporary times. A historical survey informs the trend of rulemaking in its inception through the end of last century. As we see at the first page of Kerwin's, the society recently stirred about an AIG issue which implicates the public power over the civil arena (2011). A rulemaking defines a scope of specific issues which could make a profound effect on the lives of US citizen. They prescribe any more influentially the rights, benefits and services to be entitled to the American citizen. As C. Diver commented, it would be a skin of living policy if we can add for the statute, "cloak of skin" (2011). I am, however, reluctant to say this, if we are more concerned about such specific provision of rules than an abstract generalization of statutes. The bureaucrats certainly are an important player to address the social justice which should not be momentous. It should be living to adapt with the changing circumstances, but would be required of the extent of consistency, formality and generalizability. The rules decreed would be an expression of living policy under the cloak. Its role can be said to realize the distributive justice as Plato enlightened, which is specific and in accord with the social justice or equity.

#### **4. The Nature and Concept of Modern Bureaucracy**

Given the striking influence of rulemaking in the contemporary public administration, we would contemplate how the rulemaking actually progresses or occurs. In other words, what factors or in what ways the rulemaking would be processed by the public agencies or impacted in any results as consequential for the public lives of citizen. The first question in this concern, and as supposed to be the topic of this week, would be how we see the actors or players who realize the rulemaking. We generally term this class of modern administrators or policy makers as bureaucrats. The bureaucracy would be a dimension and social designation to denote the conglomerate of institutions, norms, personnel resources, public instrumentalities and public entrustment in the modern administrative state. The term originated from the German sociologist, Max Weber, and a scope of insights had been received about the essences or moralities within the capitalistic paradigm of administrative rule. His thought marshaled the lassies-fair of capitalistic prosperity into any ordinate, virtuous, eclectic, interactive, or sound and moral regime, who considered the role of government as central and typified in cores as bureaucracy. The bureaucracy principally would imply the government or executive mostly, but would be a creature of social nature beyond the mechanic or autonomous governing authority. The bureaucrats in this aspect would transcend the concept of agencies or offices defined as a matter of law. They are neither a pure instrumentality to perform the constitutional or statutory responsibilities, rather the social elites or cultural or social egos to administer the societal value. In the Weberian purview, the societal value is entwined dominantly with the paradigm of capitalistic production but to be recast with the highlight of ethics, morality and public virtue or goodness (Gajduschek, G., 2003). Therefore, his idea would pioneer comprehensively the legal, moral, or institutional reanalysis of the thoughts of liberal capitalism, which gears up to view or yield the better realities of capitalist society within any social context.

First, the bureaucracy could be seen as an organizational phenomenon, and it could be identified as the formal-rational organization. In purview of G. Gajduschek, it would function for the public good of uncertainty reduction and the value, “rationality” could come from its very nature, although it would not guarantee an efficiency in the modern view of ideals on the public administration (2003). This attribute has been strongly emphasized in the disciplines of organizational theory, organizational behavior, and management. This understanding could be identified in the evaluation of Weber's model as a descriptive version of the Taylorian organizational model. Therefore the elements dealt with by Taylor and Fayol, such as the division of labor, specialization, strict rules-codifying the one best way-strict subordination, and exclusion of any personal element from the conduct of work, could well characterize the modern bureaucracy.

The modern bureaucracy may be described as a system-specific mechanism (2003). In this concept, we can explicate the dynamism or force of individual utility maximization principle in the bureaucratic practice. It is true that the complexes of modern democracy have brought the uncontrolled spheres or personal interests into any factor to execute the roles of bureaucrats. This view can be profiled with the neo-classical economists who consider it as opposite with the free market. Then the bureaucracy would be one behemoth of nonmarket, and with no clear and immediate feedback on the efficiency of activities and outputs. However, it has to exist since the bureaucracy is responsible to correct the market failure (2003). In the basic approach of bureaucracy, I believe that two concepts should intervene in thinking about its role philosophically and at its very basic, which would be rationality and uncertainty reduction. Provided if the efficiency is an ideal of market economy, the two

concepts address the nature of bureaucracy. In his argument, we misinterpreted the Weberian concept of bureaucracy as the efficiency-pronged institution which would be false. Rather, the bureaucracy, as an institution or organization, needs to be viewed to take an eclectic role as the rationality and certainty-reduction oriented proclivities (2003).

## **5.The Rulemaking and How It Would be Impacted: A Theoretical Purview**

From the nature of bureaucracies, we can have a good guess that some combination of law, information, politics and management ultimately determines every rulemaking effort. Although we are hardly the first scholars to identify these factors as important and note their interaction systemically, it would vastly be true in our routine experiences. The officers under the command of his superior would respect a direction about the specific issues or problems. However, any more plausible or persuasive information he holds in his professional life would stimulate a consult or communication to change the mind of superiors. Both may assume the suggestions or implied demand of politicians as primary since their ultimate accountability rest within the constituents and the elected officials represent the wishes of constituents. They also see importantly the organizational aspect of their units or branches. Because of these factors, they could not continue on the public project due to some fiscal deficiencies and the desired rule perhaps should be withdrawn or shut down. This could be said of general influences which impacts on the rulemaking, and the comment from K. Hawkins & J. Thomas would give us a maxim that the studies of bureaucracy or rulemaking would be complex as subject to a variety of legal, political and bureaucratic constraints. The sociological or institutional work on bureaucracy also would give us an insight, for example, bureaucratic maze and moral arguments or types of leadership leading to the success of organizations, or efficiency and efficacy about the forms and structure, as well as the affirmative action to recruit the minority officers, and the like.

In this concern, we can illustrate two fundamentally opposing school of thoughts in understanding the ways the rulemaking is impacted (Kerwin, C. M. & Furlong, S.R., 2011). One is the bureau dominance theory which perceives the role of bureaucracy is primary. The bureaucracy would dominate the rulemaking process and in terms of determinative leverage to produce the final outcome of rulemaking (2011). This theory considers an importance of modern bureaucracy in creating or implementing rules, and views it as autonomous, independent, creative, and final in substantial interplay (Kolber, M. (2009). The separation of powers principle would strengthen the basis of this argument if the executive or bureaucrats are preserved with the exclusive role and constitutional power. The theory also corroborates with the paradigm of modern administrative state that the bureaucrats often could be described with the adequate expertise and professional experience in their specific field. In this purview, the role of head of agencies should be relatively powerful and dominant, which would diminish in the second ways of impact, i.e., principal-agent school. First, the head of agencies would exercise a determinative role in shaping the public policy or rules by way of the command authority and institutional powers to correct. Second, the head of agencies would increase the informal network and could make the bureaucrats as some of prestigious. This could impact the rulemaking in any positive way on one hand, but may procrastinate on the progress and undermine a democratic sanctity. The bureaucratic maze may be prone to make them as secular or even corruptive, but their professionalism may be boosted in pride to make a positive impact on rulemaking. The principal-agent model would explain the ways to

impact on the rulemaking entertained by the bureaucracy (Harrington, C. B. & Carter, L. H., 2009; Kerwin, C. M. & Furlong, S.R., 2011). This model generally regards the role of bureaucracy as secondary or subsidiary that the agent has to bear their public responsibilities as subject to the will of principal. In this case, the principal could be circumscribed in concept as citizenry in a bigger picture, and congressmen, president or Supreme Court Justices whose offices immediately or indirectly represents the sovereign people. Therefore, the agent would be merely the class of public officers entrusted with the life, liberty, and property interest of people. Therefore, the ways of rulemaking should operate seriously to respect the interest of people, and any ultimate context of factors is required to arise from the principal who impacts profoundly the rulemaking process and its outcome. This view could be considered as classic and espouses the idea of modern constitutionalism and democratic virtues. In this case, the role of head of agencies could be disposed in two basic ways. First, their role in rulemaking would be conservative or normative, hence, he or she would be prudent about the norms and basic structures of law and bureaucracies. It could create the society with less regulation where the firms or enterprises could find more opportunities and prefer to invest. Second, the head of agencies may fail to respond with the advances of society which generally requires a leadership role of government beyond the responsiveness and loyalty to the will of principal.

The role of head of agencies needs to be thought in view of the congressional delegation of authority. The scope and extent of leeway in exercising a discretion, hence, the extent of agencies' authority would be defined from the delegation. I agree on the research findings that the managerial capacity of agencies influences the volume of policy authority that lawmakers delegate (MacDonald, J. A., & Franko, W. W., Jr., 2007). From the work of MacDonald & Franco, we can confirm our general holdings that the congress would take account materially of the performance of agencies in contemplating a delegation (2007). The possible policy conflict between the legislative and executive branch would lead to this understanding so that we can analyze the findings in resonance with the head role and two theories. The head role would be any more important to grow their agencies and organizational competence as well as extent of reach or authority. Given the accountability from rulemaking and its implementation finally lies within the head of organizations, his role would be critical in interaction with the political branches. The research findings that the poorly performing agencies are more likely lose policy authority and the congress would give an incentive for effective policy making reveals the current context of principal-agent modality. Nonetheless, it does not contradict the hypothesis of bureau dominance school since the congress massively delegates and defers to the practically steering role of modern bureaucracies.

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## **Chapter III. Public Agenda and Democracy**

### **1.Public Agenda and Democracy**

#### **1-1. Compulsory Draft and Affirmative Action as a Public Agenda**

One issue would be interesting if some kind of affirmative action rises to call a public attention in Korea. The case involves a same policy objective and similar context of redress, which is like the case of US. In Korea, we have no history of slavery and servitude involving a race. The policy, therefore, was not necessarily drawn to address the past wrongs, but was designed to address the needs of compensation (Curry, G.,1996). Korean government introduced a merit system for the military personnel retired from his compulsory draft enduring two years. The duty to serve is a constitutional mandate which requires the male youths of statutory age unless otherwise exempted from the medical reason. We generally see it sacred, and is ontologically demanded particularly if we confront an enemy state of North Korea and communists alliance. It often is raised as a point of investigation when the public nominees or social popularities undergo the contest of merits for his appointment, approval, and any public attraction. The stars and pop singers may face a public criticism if revealed of his illegal exemption. The nominees would be challenged seriously if no justifiable reason could not be offered for his exemption of service. So the compulsory draft comes with a part of national passion, and works on the basis of sanctity to subscribe to Korean society.

For policy reasons, Korean government enacted a statute to add small points for the retired servicemen in a scope of national exams. The exams are national and of public nature to recruit the governmental employees, but are very competitive given the diminution of job market over the recessive period of global economy. Many civil candidates aspire to pass the exam, and to possess a stable position as a governmental employee. This leads those exams to be competitive, and they usually invest much time and cost to study in private lessons or programs (Waldron, J., 2004). It turned to be very sensitive if the incentive system was enforced to advantage the retired servicemen. That is so even with a minor point if the nature of exam actually is thus competitive. On our easy wisdom, there could be several reasons for the government to choose that option as their recruitment policy.

First, the service was performed without a proper compensation if they are not a professional army. A compensation is negligible, but the youths have to sacrifice their precious young years. If the nation now turns to be advanced squarely over aspects, this type of servitude can no longer be seen as economically or socially acceptable. For the poor economic status, the military would do in some aspect if they breed them with food and other educational or social development of youths. They may learn some skills or technology which can enable them to utilize for their career. This hypothesis can no longer be sustainable if Korean economy now ranks at world 11<sup>th</sup>. They are not a noble warrior class who were esteemed as social or economic class during the feudal times. They would perhaps be poor as to serve as Jean Val Jean in *Le Miserable*. Recently Korean youths are filmed in *Le Militarible* as a parody, but look better with uniforms and costumes. However, they are relatively exploited as compared with the professional army in other liberal states. Second, the government may properly argue that the service period could be a kind of educational

experience for leadership or that they can learn the skills for organization. Hence, they could be a more competent officer to serve on his public duty. The point to favor them could, therefore, have merits to choose a qualified caliber to staff. Third, the incentive system also brings a high morale and campus culture, which is pivotal in terms of national military strategy. Besides the above points of rationale, there could be a scope of policy reasons to support the system, i.e., integrity and national ethics, distributive justice, equal protection of laws, and others.

Of course, the countervailing argument could be legitimately lodged on many points concerned. First, the rule of fair competition was impeded which is a fundamental principle in the liberal democracy. An equal opportunity needs to be ensured to public office for each citizen, and the state involvement with the incentive system contravenes an equal protection of laws (The United Nations.,1948). Second, the theory of affirmative action would generally trigger past wrongs, but the case is distinctive if the system is irrelevant with the wrongs of government. Third, if the government focuses on the social welfare or wealth redistribution, the incentive system only partially captures the military servicemen. In other word, it is prejudicial against other group of the deprived class, such as disabled or women. It violates, therefore, the constitutional mandate of equality among those groups.

The government, in any way, advanced to enact the statute, but the interested parties filed a constitutional complaint seeking for the court to find it unconstitutional and invalid. The constitutional court, in the event, invalidated the statute finding it unconstitutional based on several provisions of Korean constitution. It particularly stressed an unequal nature among the potential beneficiary groups, who are military servicemen, disabled, and women. In the course of enactment, a public forum was held on several occasions, and the agenda was sternly reviewed in the cabinet. It also was debated seriously through the process of national assembly. The steps of procedure are generally required of the constitution and relevant public laws.

### **1-1. How do the Democratic Concepts and Principles Marry the Affirmative Action?**

We can find some interesting points in the above agenda in terms of the democratic concepts and principles. First, there does it involve a utilitarian dialectics and liberty discourse for the modern liberal democracy (Mill, J. S., 1909). Do you agree if any hedonic or psychological egoism, as Bentham and Mills argued, can interplay with this context? If we are a self to pursue an egoism, are the Korean youths proper to be compelled for the military service? Some may take it good for his ego, but most of them probably would find it as contrary. How do you think assuming that this type of compulsory draft was introduced into the United States given a peace time? We are posed by the challenge in terms of political geography. As faced directly with North Korea, are Koreans situated in a kind of war context? Besides the points of psychological assumption undertaken by Mills, I rather find it more sublime and supervening if the utilitarianism governs for the maximum happiness of society (Mill, J. S., 1909). Given this point of consideration, I suppose that the utilitarianism possesses some nature of collectivism and relativism. This sharp contrast between an egoism and utilitarianism may be mediated with the words “pursuit of happiness” in the US constitution. Pleasure and happiness need to be distinguished in Mills, but the pursuit of happiness needs also be envisioned to accommodate the public concept since it was presented

with the constitutional terms. The pursuit of happiness is no longer that of egoism, which could be moderated in the context of political community. The harms, for example, would not be tolerated if it infringes with other's right and liberty.

Korean historians now debate about the identity of Korean Republic while there are opposing views between the leftist circle and conservative liberalists. The latter is strong in its tone and persuasion, who currently intend to publish a separate text book. This is partly because the stalemate was gotten lengthier over the publication of official high school textbook. In any case, the constitutional scholar classes the Korean constitution in terms of liberal democratic tradition, yet with aspects of social moderation. The provisions of social right, and principles of the democratic control of national economy would perhaps be a typical taste for the socialist nations. The latter actually offered a point of public debate, which was through the previous presidential election in 2012. The compulsory draft is a constitutional duty, which is stronger than statutory regulation. It never could be removed or revised if a set of weighty procedures should be processed as described in the constitutional document. On this point, we can see it socialistic if it probably is irrelevant with the egoism and pursuit of happiness. In designing the constitution to incorporate the democratic concepts and principles, I became aware that the circumstances take a part in rather powerful way. In some case, the circumstances involve a historical lesson as in the case of affirmative action for the minority races (Curry, G., 1996). The concept of equality, in this context, needs to be seriously revisited by transcending the mere concept of egoism and equal opportunity.

The concept of property and liberal competition also was echoed in this case (Mill, J. S., 1909). This point of focus eventually led the judges to favor the argument of complaining party. For their eyes, the retired servicemen are never the partisan of communist party, who just performed a sacred duty of military service. An ontological discourse of the European continental states would perhaps be more properly ascribed to define their constitutional duty. As adhered by German and American constitutional scholars, their duty may originate from self-determination of the individual and nation (Post, R., 2006). Egoism, as a matter of definition, brings the concept of self-determination while Mills did not definitely state on this point. Self-determination may expand to the context of nation beyond the individual (Post, R., 2006). This point would, however, be elucidated more clearly by President Wilson, and German constitutional scholar, Carl Schmitt. This concept is now upheld more prominently by US constitutional scholars who generally raise their voice to respond to the international constitutionalism. The constitutional duty of Korea as above can be more properly understood in this context. For several reasons, however, it is not desirable for the retired servicemen to be privileged on the national exams, but equal opportunity to the public office reverts the issues more fundamentally between the egoism and equality.

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## **Chapter IV. Democracy: Essentials and Desirables**

### **1. Democracy: Essentials and Desirables**

#### **1-1. Introduction**

For this week assignment, I chose four concepts which we now sustain as a principle for democratic governance. They cover the establishment clause and the freedom of expression as well as the Mill's concept of utilitarianism and liberty. I suppose the first two are essentials to see the adventure of democracy since it enables us to be relative over various ideas. The second two are critically relevant and desirable, but can be modified to respond to the call of circumstances.

#### **1-2. Two Essentials: the Establishment Clause and Freedom of Expression For Relativism**

Over time, the democracy has been generally considered as best alternative to exercise the state power and allocation of resources. The people are rational actors, and became to be seen as to determine their self (The United Nations, 1948). They are no longer to be submissive to religious rule in any absolute terms, and thus the establishment clause requires that the state should not endorse any type of religion. A religious toleration in Lockean concept formed a foreboding to compel the state to be neutral, but pushed the sovereign exclusively in secular affairs. If we accept that the human is reasonable, the surge from its element brings the consequence to protest against any monumental or coercive command. The first thing to deal with this would be to see the intrinsic differences between the religious rule and secular governance. People, as an individual, could be pious and entertain a faith from a sacredness or sanctity experience, hence, they could be religious. This context would never mean, however, that religion may legitimately govern the community in modern times. A religious rule is basically sublime, but the modern paradigm of democratic rule is assumed on the self-evident values on liberty, equality, deliberation and public justice. A religious rule would bring the sectional conflict among the competing ones, and could put it unequal between the religious class and other reasonable persons. It may force their religious belief on outsiders or religiously disprivileged class to sanction or punish, but without any plausible ground on "reason or scientific persuasion." As our long-held hypothesis on liberty, equality, or deliberation and public justice fundamentally dismantles by the state endorsing or being actively entangled with the religion, I believe that the rule to proscribe an establishment of religion is essential to sustain our current paradigm of democratic rule.

This point is related with the rise of western reason, and protestant ethics to counteract the kind of absolutism. An endorsement of religion might be equivalent of deceiving ourselves, illegitimately allows us to be enslaved into something absolute, which is unacceptable for modern minds. Relativism, in line with this connection, could be one point of relationships with the modern democratic governance. I suppose that semi-absolutism may be found in terms of pure theory of justice or Karl Marx's communist adherence. John Rawl's idea about justice is theoretic and encourages to discard the element of property in thinking

the true nature of justice (Machan, T., 2005). Karl Marx is also absolute to his science and prophecy. Paradoxically, however, Karl Marx attributed the religion to an opium which would lead the mass to false consciousness about their self and society (Waldron, J., 2004). The difference, then, would lie if the latter has a scientific ground on the dialectics of social science, but how much we have been persuaded rests now unanswered. John Rawls's tenet on justice is powerful to appeal to our sense and understanding theoretically, but there is also a point to see it formalistic and purely theoretical if he diverted his eyes from the realistic dynamics of distributive system. Hayek and Friedman would figure rather on the realistic ground, who touched on the institutional aspect of free market economy (Waldron, J., 2004). As we saw, this context was once visited concerning the neo-liberalism and neo-conservatism in the context of American way of democracy. This kind of absolutism, however, would not be the same as religion in the history. So the relativism operates to evaluate its identity and status in any given democratic society. Now I suppose that the communism is uniquely a kind of religion, in modern times, against which we should defend to ensure a liberal democracy in many liberal nations. Germany is considered to have a defensive basic law against the fascist form or communist form of authoritarian party or government. US does not have a definite constitutional provision to encase the communism, which could be as exemplary as religion in the First Amendment. However, the sedition act squarely protects the state and government against the communist revolts or other threats arising from this context. A clear and present rule was well designed to balance between the science of communism and its practical evils on the violence of working class (Machan, T., 2005). The Republic of Korea, on the other hand, has a principled provision or constitutional command to ensure against any absolute ideology. The reason is obvious if Korean public are reasonable and allow competing ideas of public policy to govern themselves. A most immediate enemy in this context would, of course, the communists, but the constitutional scholars generally agree if the constitutional reform would not be permissible to restore the republican form of government to any feudal monarchy.

Then, the issue of first amendment is mutually enforcing and can be seen to play as essentials of modern democracy. The freedom of expression serves to enhance a self determination, and imputes the concept of self government (Post, R., 2006). As we are an independent and reasonable self to constitute the political community, the freedom of expression is essential to create the republican form of government. It fosters to create a prosperity of ideas, and is essentially related with the perfection of self in the enlightenment ages. It is a pivotal prerequisite to preserve the modern minds unabridged in the intellectual context and in terms of subscribing to or leading the government in any way (Wright, Q., 1954). The ideas created and expressed are put on the market, contested, and compete with other views. It is a unique and most productive way to find the truth. A prior restraint should be absolutely impermissible although the expression may be unsupported by the prevailing majority of views in its times. It offers the basis for the representative government, and leads to the concept of participatory democracy which now turns to be virtually universal (The United Nations, 1948).

### **1-3. Two Desirables : Utilitarianism and Liberty Concept**

A utilitarianism and liberty, and also equality have long been mediated to lay the foundation of democratic value and virtue. One of notorious deliberation on this subject originated from such famous work "On liberty," as elaborated by J.S. Mills (Mill, J. S., 1909).

He may well be seen a protégé from his precedents, Locke and Bentham. Particularly, Bentham would perhaps be the most influential over his churning of difficult issues on the humanity, social philosophy and politics. However, his elaboration had elevated, or been substantiated, and in some cases, differed from the Bentham's version (Brink, D., 2007). Therefore, the assumption of human egoism, and the perspective of utilitarian assumption could be distinguished in some points. As he was a Victorian thinker, his intellectual circumstances were presented in most heydays of British imperialism (Brink, D., 2007). He could be placed in the behest of two epochal revolutions, and drove himself to meditate on a scope of classic ideas and concepts to bring the prosperity of liberalist prevalence. Industry also radically enhanced and prospered to see the victory of libertarian glory. In this backdrop, Victorian universalism was let on prose to cover three elements to the infrastructure of his times. In his prongs, the utilitarianism offers a parameter to gauge between the good and bad, in which a kind of primitive theory of public policy might well be germinated. How to generate a maximum happiness, a slightly different form of Bentham's quantitative calculus, also enabled to develop a delicate and intertwined nature of utilitarian concept. This leads to the virtue of contesting the competing policies, selection of better ones, and proposes more prominently a deliberative basis of democratic rule. He begins with the human egoism, which is critical to see the status of society. This concept offers the ground to find the sublime goals of individual happiness if he, in his earlier years, studied eagerly on the Greek teachings. This was a basic assumption, but never excluded the kind of altruism that could upstage in an enhanced democratic society in terms of agency and individual. Hence the happiness is not merely a pleasure, rather a higher pleasure and the act utilitarianism and rule utilitarianism arose (Brink, D., 2007). As egoism is concerned, the concept of property, which might be economy in modern focus, needs to be visited as in the case of his precedents (Machan, T., 2005). Generally, he accepted the Lockean version of property, which was essential to saturate an individual happiness. While the origin of inequality was whispered in the continent, Locke saw the first occupancy of property as a basis of entitlement to the property. A sanctity of property upheld during the revolutions constituted three essentials in modern democracy along with the life and liberty. If the distributive justice is one focus of public policy, this erects a fundament in contrast to the "evils of commons" (Brink, D., 2007). In this way, the democratic principle of national economy was introduced, which now troubles many of policy makers to squeeze for better efficiency and distributive justice.

His idea between the egoism of individual and agent also brings a leeway that modern policy makers could penetrate the mechanism of democratic governance. If the government acts through its agency, it needs to investigate the process of interaction as in the nexus of the ideals of utilitarianism. Judges, one of most concrete agents and policy makers in the liberalistic nation, would come as the point of explanation, who need to uphold the errands of utilitarian ideal (Brink, D., 2007). He is required to refine a better law to serve a maximum happiness of society, and may get to be entangled in the conflict of interests with his personal egoism. This aspect also involves the case of congressmen, and other class of policy makers. Voltaire's lyric entertained in the continent reflected this aspect with the labyrinth and dereliction of common law judges His tenet may be related with the bureaucratic ethics as well as deliberative concept of modern government. And it could be companioned with the social practices of modern western society as is found in Max Weber. His concept on utilitarianism is actually delicate and subtle to incorporate a complicated evolution of capitalistic society. The person and agency need to act to serve the "direct and indirect utilitarianism" (Brink, D., 2007). There would be selective situations that men find



it operate a direct utilitarianism. In some cases, they have to follow the rule of indirect utilitarianism where most of modern policy makers receive as their role because of the unclear cut ways on his policy choice. On this dimension, sanction of utilitarianism arises to give a compelling reason, which could be to increase the interplay of utilitarian value in the society (Brink, D., 2007). It may be engineered in the context of criminal policy or realized through the election and other checking device of state power.

In his views of democratic governance, the representative government and accountability of agency bears a significance to sally forward the ways in which the modern government functions (Brink, D., 2007). Two vehicles are crucial to bridge the people and their agency, which could serve the production of maximum happiness. In this context, his idea incorporated an expansion of franchise, and his argument gave a critical focus on the voting right of women beyond the traditional arguments for equal votes (Brink, D., 2007). His pledge on the women in the context of enfranchisement was later developed by the American progressive, La Fayette. His extension of liberty concept on the traditional gloomy area concerning the paternalism and women was notorious as an enabler for the insular and discrete class of society. Therefore, his vision contributed to a universal benefit of democratic virtue, in which the traditions were secretly shared as a kind of intrinsic within the western family and social system (Brink, D., 2007). He was enthusiastic to reorient the role of women in the democratic society. He also opposed any slavery and downgraded the merit of paternalism, which would encroach upon his hypothesis of egoism and utilitarianism. Nobody has the right to enslave himself to any authority, and the paternalism is one aspect of evils to relate with the slavery (Brink, D., 2007). In his purview, the person is independent, and can figure or calculate his own destiny. Therefore, it is certainly never the failure of liberalistic society to produce the perished groups, but is viewed a kind of natural selection as Darwinism believers embraced. Then, it comes absolute in his case that the liberty and equality should be reinforcing each other by not damaging the liberal version of free competition. His earnest argument on the sexual equality and abolition of slavery also can be perceived more usefully in this context. On the other, the difference needs to be highlighted between mere offense and harms in the context of utilitarian sanction (Brink, D., 2007). As his theory was grounded on the right and liberty, mere offense does not offer a basis to eradicate, but easily being viewed a kind of experiment or testing experiences for the utilitarian goals. The harms, however, play to infringe or damage the rights of others, which are fundamentally unacceptable in his underpinnings over the liberty and right.

Points of views and propositions concerning the democratic agency are important to understand the current dynamism of liberal democracy (Post, R., 2006). A welfare of citizens stated blatantly in the preamble of US constitution reflects the idea of utilitarianism, and guides the representatives of people to abide up by. The prudent judges could take a major part as an agency to bridge the will of people and institutional arrangement of democratic governance. As an interpreter of constitutional document, they can play the role as an apostle for maximum happiness. The concept of higher law comes into a fit to interact with his viewpoint. In the international context of governance, the agency may play in a little differing forms, what we call a "shared agency." There would be more laws of soft nature, and no rigid form of government generally can exist in the international plane. However, there can we find some form of governance where the shared agency functions. The agent, in this case, may be diplomats, legal scholars, and jurists of respective nation, who convene, confer, and produce

the international norms. CISG, and many international private laws could figure into this context.

## **1-4. Conclusion**

The concept of liberty is essential to sustain the background of liberal democracy. There are two separate streams on liberty in this more enhanced society. If we call the Mill's a "negative liberty," there can we identify a "positive liberty" concept. This concept leaps from a passive understanding of "liberty and equal opportunity." For the deprived class, it would be a virtue to substantiate their rights and to increase the competence to entertain the pleasure of liberty. Therefore, the state may act in the context of paternalism to boost the independence and ego of individuals. Many social programs and legislations in the 20<sup>th</sup> century can be seen in this light.

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## **Chapter V. Some Thoughts on the Contemporary Democratic Governance**

### **2. The Contemporary Democratic Governance**

#### **1-1. Humanity, Political Community and Governance**

As a matter of basics, we are required to see the class of society, community or polis in which plane the politics and democracy returned to contest their virtue. The merits and deficiencies as well as virtues for our topic could be made distinct and competing concerning the nature of political community. We now are allowed to retrospect the Roman empire and Greek classics for a discussion starter. That is, as we can share, primarily because they offer the primitive form of western society. As we also get common, such earlier classic period was dominantly founded, and could be termed as a warrior state. Crete or Sparta perhaps has some nexus to drive the philosophers to be sophisticated about their political meditation. Roman empire would go the same way, but in a better civilized and well-organized political system. A purview to penetrate the political system in the eyes of warrior dominance would often be true over the medieval times of feudal system (Dolman, E.C., 2004). That element would turn weaker if the nation state emerged to keep the society relatively stable and civilized. As we see, the peace of Westphalia in 17<sup>th</sup> Europe terminated an intense sacrifice of religious war, and endorsed the legality of secular powers as in the form of nation state. The 16<sup>th</sup> Investiture movement foreboded the demise of religious governance which commonly influenced now the eastern communists and western liberal states. The advent of nation state in Europe would serve in ways for the kind of peace regime. The nation states are equal and sovereign to make it more practical and effective on diplomacy. They are given an authority to negotiate and conclude the treaty which was theoretically impossible if the monarchs or dukes are under the hierarchy of Pope. They could never create rights and duties unless the Pope permitted. That is analogous if the Defense Ministry or Secretary may not make a treaty while the US is sole legal entity in power and competence. If they are equal and sovereign, they are free to enter the treaty as if the modern citizen, other than feudal subjects, are with the contract. The diplomacy and treaty, then, operate to prevent war, and hence the nature of society transformed. The balance of power is one ideal in the Europe which was upheld primarily in this purpose.

If we are with any psychologist work, we may perhaps see it one strand of human nature to be belligerent or aggressive (Dolman, E.C., 2004). This portion still influences a direction of political discourse in some pure political theory. For example, the realist road of international politics gives a focus on power itself, and legitimatizes the absence of central government in the international community. They say UN in the context of idealism, but vindicate the method of security council as ways of contemporary governance. In this case, the veto system legitimately overrules the traditional majority rule in democracy. They also look seriously the balance of nuclear power and the factors of ICBM. The ethics and morality rose in a secondary concern which can complement in the crux of power dynamics. This view can largely apply to the Confucianism oriental states with some reservations. The advent of nation state began earlier and the equal status of each sovereign was not ensured. The China's might and its cultural dominance generally led the international politics in some of

hierarchical interaction. These factors had worked to sustain the feudal system far lengthier than the western politics.

## **1-2. Rome and Greek Teachings, and Civic Virtue**

In order to think about three definitions, the civic virtue involves rather extensively, but the warrior nature of society generally contravenes or less related with. The above context gives a limited approach over the rose war in Britain, the civil war in US, the Korean wars, and other domestic struggles. Other concept close to war would be a revolution, which is generally considered a successful war and obtains its legitimacy in the purview of political governance or democracy. For our topic, many of revolutions often play to make a lesson of civic virtue (Lovett, F., 2006). Therefore it comes relevant with the republics and democracy. Surrounding the democracy or republics, therefore, we are compelled to surmise around the class of constituents and structure of the society (Roust, K., & Shvetsova, O., 2007). I welcome those two as a gift on this point. Roman empire identified their citizenry and the people of conquered lands in dual streams. They made a law for their citizens which were more enhanced, organized, and privileges or rights- oriented. They, however, never lawfully discriminated the people who are not the citizens of Rome. They were universalists in principle, but the laws for them being far less organized and less ways on the privilege or rights concept. This classic test point may share not less significantly over the contemporary governance.

The modern Korean republic, US, France and others are universal to make their constitutional commission, but are less specific or reasonably get on a different treatment between their citizen and foreigners. Other interesting remnant is the way of governance, what we call “the Senate.” Rome was governed by the emperor, but on the consent and approval of senate. They never adopted a republican form of government if the people are not the source of sovereignty or supremacy in any way. But this institution of governance offers an insight even for the modern democratic states, typically for the US and other bicameral nations in the world. The idea and its virtue, henceforth, generally well compromised the civil virtue which we customarily propose and defend for.

The lessons from polis come in rather different ways about the democracy and republic. Given their benevolent and mighty King, they could entertain a scope of humanistic and virtue narratives. The words “demos and republic” would perhaps be firstly coined by the Greek philosophers. Ironically, however, the democracy is a worst form of governance while the philosopher’s republic is supreme and ideal on their argument, which is of fairly intrinsic nature. In the course, Socrates was condemned to death for his alleged crime of conspiracy with the youths, propaganda or incitement. He would be an anti-government critique in modern pairs. They envisaged an “IDEA,” which created many elements of civic virtue now held through these times. His sacrifice plainly brings the concept of rule of law. Even the worst law is the law we have to respect. The tyranny and its expulsion would perhaps evinced the idea of rebellion or regicide for the modern democratic thinkers. Freedom or liberty concept also saw its root of tradition. Equality and community concept presumably governed their ways of thinking, which could be universal and on humanity.

### 1-3. Three Influences and Tentative Definitions for the Democratic Governance

Most decisively on the democracy and the concept of republic, however, we need to recourse the previous points of modern theorists including John Locke, Rousseau, and others. For the understanding and definition work, therefore, I suppose three influences combined to shape the ways of reflection. The modern bourgeois revolution had impacted a practical consequence on the legitimacy question, and *politically* been determinative to bring us generally to submit. The Roman mode of governance offered the basics of governance *institutionally*. Greek philosophers lead us to think *ideologically* over the elements of civic virtue.

Then, the representative democracy requires the form of governance that the base of people can legitimately participate to make a political decision but on the condition where the dominant class may shape the mode of participation (Krane, D., & Koenig, H.) This concept may typically incur an equal vote and proportional representation. The contrast for our easiness may be drawn from the House of Representatives in the US, and the House of Commons in the United Kingdom. Those organs generally symbolize the representative democracy while the Senate and House of Lords are organized in other points of consideration. For Japan, however, the bicameralism was adopted, but the upper unit of congress shares, in some aspect, any participatory ideas given the election being based. The representative democracy is simplistic in its theory, and thus a scope of evolution was substantiated in terms of civic virtue (Lovett, F., 2006). Open debate and privileges or immunity on the floor govern the process of decision making. The committee system also goes in principle for the modern form of congressional function. As of its peril, the informed decision or deliberative democracy increasingly enhanced its profile as a civic virtue. Under the hierarchy of written constitution, however, the principle of delegation operates to defer a detailed policy making to the executive. The presidency also constitutes other pillar of representative democracy while an independent election is held to choose the president. They generally function in a separate legitimacy for this reason, and the check and balances among the national powers serve to ensure a civil liberty. In modern governance, the executive is more technological and enjoys a wider scope of public policy making powers. We, therefore, call the contemporary state as an administrative or positive one, which contrasts with the liberal or limited government concept.

The constitutional democracy can be defined in rather institutional context where the political legitimacy, structure of government and ways of function of each branch of government are incorporated in a written or unwritten constitution (Ritchie, A. C., 1936). As the term essentialized “democracy,” it should be distinguished from any type of dictatorship or monarchy and oligarchy. We use the term of “constitutional monarchy” to denote the commonwealth countries, and it can be seen to counter-pose each other. However, if the monarchy is just symbolic, the decision making authority, in constitutional practice, was exclusively vested within the House of Commons. Then, substantially and actually, it may fall within the constitutional democracy. If the representative democracy, in principal reflection, goes more politically, the constitutional democracy brings a scope of institutional concern over the mode of governance and thus can well be varied in its forms across the countries.

Republic generally connotes a form of government that the sovereign power of state lies in the public in general other than a monarch or the selected class of powers. In many senses, the public, in this case, refers to the wide of liberal citizens as confirmed from the bourgeois revolution through the modern times of equal vote. In some case, the public may denote the working class, and allows the dictatorship of communist party as we see in Chinese People's Republic.

The above three concepts are akin among another to interact for shaping the nature of respective political community. As we learn from "civic republicans," however, they interplay within the preserve of implicitly shared elements historically vindicated from various contests. That would bar, in significant ways, its ongoing character whose virtue would govern (Boyd, E., 1997), but offer a general consensus to the current form of UN governance. The representative democracy, in my view, is most flexible to adapt with various forms of organization. For example, the corporate governance may be approached on this element. Recently, the rights of minor shareholders has been debated for economic justice within the private firms. The nature of organizations, however, tend to shift its way of operations as we see in the IMF or UN. A weighted voting or veto system was introduced in proportional justice even if the democratic representation of member states was triggered as sublime ideals. The constitutional democracy falls within a second group in its flexible applications. It presumes a political community, but in some cases, the international constitutionalism is raised to address the contemporary form of world governance. In their light, the Universal Declaration of Human Rights would dispose a same context of significance to the bill of rights prescribed in the constitution of modern states. The concept of Republic would go most stiff if it is now used to specifically denote the identity of political governance in a specific state or national government.

Over the contemporary governance, I suppose it to be useful to refer forward and backward to the three camps of thought, civic humanist, civic republicans, and communitarian groups (Lovett, F. (2006).

## **1-4. American Federalism**

What is federalism? By way of definition, it is viewed as one way to constitute a national government where the US is most of typical and representative example about the federal nations. In the interaction of political powers, there would arise an intrinsic pathway to shape the framework of government. In some cases, there are other factors to adopt a federal fashion of national government. To say, the federal system can be imported in terms of interchange of the institutional cultures for some nations. It is typically enabled if the national community and their territory are relatively wider to administer their public or national policy. To see the framework of national government in the contemporary states, the international laws generally allow three classes which includes a unitary, federal and union of nations. The lines to bring these categories are not clear, but common understanding is virtually possible.

For the unitary form, we can have straightforward ideas if we are well-exposed to common roles and functions of government. In this form, the government is centralized to entertain a sovereignty vested within the national government. They are supreme in domestic jurisdiction, and also have a unitary government to represent the nation in the international

relation. It is privileged, equal and sovereign in terms of international law. A weakest form of union is found in the third class, which are not a nation in its nature, but united symbolically because of their historical, communal, or any economic or social purposes. Most notably do we see the commonwealth nations where the system of government should be distinguished clearly from the former two. The commonwealth nations respectively manage their national army, and the foreign affairs are independently shaped within the power and responsibility of each constituent nation. To say, the Canadian government, despite its status as a commonwealth constituent, has their own army, and is termed an independent sovereign state as being equal with other nations in the international context. The power and extent of sovereignty for each constituent state are generally similar to the unitary form, but may partially or symbolically be submissive to the United Kingdom. For example, the judicial hierarchy now operates in its own supremacy for each nation, however, some of commonwealth countries are still put under the final review of privy council operating on the base of London. In this case, theoretically, the supreme court of nations is not final in its adjudication, but the possibility of appeal made it a lower court for the Privy Council in terms of judicial hierarchy. It is a most loose form of union which may be compared to some extent of United Nations. But there is a historic, symbolic and some of practical cause to structure their government in this way.

The federal form of government may vary in its structure as well as mode of function across the nations. It is seen an intermediate form of union between the unitary and union form of nations. The constituent state, in this case and particularly for the US, is admitted into one federal system, which confers a scope of state power for protection and common welfare. Internationally speaking, the federal government is a unique entity to represent the national government, but the domestic jurisdiction is organized in the concept of dual sovereignty where the state and federal government has a distinctive power and responsibility. Generally, the federal government is deemed as supreme, but the constitution usually confers the sovereignty for each state as well as for the federal government. Therefore, dual sovereignty is conceptually recognized, but the federal government is superior to each state, for example, and by operation of the supremacy clause in the United States. The federal law preempts the state law no matter of its hierarchy in legal terms, if concerning the federal affairs as prescribed in the Constitution. The scope of federal power might not be comprehensive as debated through the history of US democracy, but it is the law of constitution that even the state constitution may not contradict the lowest form of federal decree.

Then what is federalism? Federalism is coupled with the US constitution, which provides a key to understand the dynamics and role of government in the United States. Federalism, in terms of its intellectual approach, bears strands of implication and nuance to find a desired form of interaction between the federal and state government. To say, it is historical, political, juridical when we investigate the concept. As the word denotes, federalism is proactive surge to increase the roles and powers of federal government over respective states. This is a historical concept to develop the mode of governance employed by the early version of confederation in the colonial states. Thirteen states turned to be sovereign, but the needs were obvious to unite in the course of struggling against the British imperial rules. They enacted the Articles of Confederation as their constitution which was weaker and limited, just as to unite for preservation of the colonial states. The constituent states were equal among one another, but the higher level of federal government was generally denied. At the end of war, the new union saw a conflict between the federalists and anti-federalists in



shaping the republic in the new continent. There were a tack of practical problems to orient this conflict institutionally, but were later modestly incorporated into the constitution. The contention between the small and large states was representative, which destined many controversies still standing around the historical wake. The federalist paper, as familiar, would offer an in-depth meditation about the conflicting values and ways of dealings. This historical document also has juridical implications, which played to find the meanings of abstract or ambiguous constitutional language, as well as for its vacuum. On the vision and theory of Madison, Jefferson, Jay and others, the United States constitution was ratified to make an ever first written constitution in the world history. Its character is generally considered stronger or enhanced form of federal system to the Articles of Confederation, but the Madison's role worked to mediate a more strong argument of Hamilton between the state and federal government. His delicate deliberation of federal system brought him as the father of constitution.

As a policy maker or administrator, the federalism touches us importantly to deal with the agenda and issues. Most notable focus should be given to its ongoing nature where the role and responsibility of governments can transform to meet the challenge of political, economic, and social circumstances. This means that a chronicled explication on the terms and shifts about the federalism in the US plainly leads us to this context. Given the constitution being the supreme law of land, the supreme court is generally considered to safeguard the smooth and constructive function of governments in the federal system. As a final arbiter of constitution, we may rely on its authority and the kind of constitutional practices in the US. However, it is paradoxical and lessonsome if we may know the controversy between the presidents and the power of judicial review pronounced by John Marshall. There is no explicit provision to confer the federal court, which power could invalidate the federal statutes. *Marbury v. Madison* enabled this, but in the endorsement of the court by its own hands. So the anti-majoritarian difficulty can legitimately be argued to question the court authority, which a number of presidents, including Lincoln, historically supported. This context also pushes us to be more scrupulous over the federalism dynamics. As articulated, the current form of struggle during the Bush administration had manifested a scope of public issues in the different pathways of federalism. If the Republican party generally favors a strong state powers than the federal government, the democratic party rather would value or enforce the cooperation between two levels of government. This tendency would be our points of understanding, but, as a matter of practicality, of course, may vary to address the situation. In their review, we are led to a scope of public issues, i.e., education, environment, health care and welfare benefit where the federal power significantly eroded to bring more active role of state government over the public issues. His analysis of eight recent cases vindicates his argument for less federal intervention. So the nature of federalism would go political and juridical where our particular emphasis should not lose a sight on its ongoing character.

The separation of powers is a critical concept in understanding the republican form of government. As Sir. Acton suggests, absolute power should absolutely collapse. It constitutes one key element to champion the civic virtue where the republican form of government is required to intend on or uphold. If we see an ultimate goal as the freedom of people, there are a scope of civic virtues which cover rule of law, participatory election system, separation of powers, individual freedom and independence, and so. In the contemporary understanding, we can see three groups of scholar, i.e., the civic humanists,

civic republicans, and communitarians who generally structure the prevailing influence for the modern democracy. In many cases and our sense, the democracy, in the contemporary form, principally derives a legitimacy from the general base of public. Hence, the civic republicans allow us to share the discourse of democratic government. They emphasize the virtue of liberty or freedom as in the case of civic humanists, yet to expand their perspective to the structure of government and public governance. Their concept of liberty, in some enhanced elaboration, may infer the intrinsic of positive liberty beyond the negative one. In the contemporary interactions, the positive liberty is essential to ensure the liberty or freedom in true dynamics of the society and public. They advance the republican stance that they see the criminal or civil laws authentic and be required to address the freedom of people. They consider a bogus commitment or wrong delivery of distributive welfare as dangerous, which would threat the freedom of individual. For them, this is not the will of public. A clear guideline or criteria may lead the public to be stable and would not provoke in bringing a genuine freedom for individual. Therefore, the points of public agenda need to be scrutinized in the eyes and yardsticks of “public” they embraced, as hypothetical though in some aspect of our intelligence. The separation of powers is also a crucial virtue to safeguard the individual freedom. They fundamentally oppose, in most theoretical counter-thesis, the arbitrary exercise of power. In order to curb the arbitrariness, the principle would play a key role for public peace and individual freedom.

The separation of powers, in modern democracy, originated from the work of two thinkers, John Locke and Montesquieu. John Locke considered the powers on its nature where the law-making power and sovereign power can be identified, but should be separated to serve his thesis of human liberty and civil government. Montesquieu is the other notable figure who developed the tripartite argument on the separation of powers principle. His insight found other intrinsic function of governmental powers which is called judiciary. A judicial function is distinct to play on the case or controversy, party system of litigation, as well as the confirmation and endorsement of what the law is in the context of application. He saw it necessary to distinguish them since it differs, on many aspects, from the law-making powers. His idea was adopted in the course of constitutional draft in the US, and most of the presidential system of government in these times usually structure their government in the tripartite system, namely legislative, executive, and judicial. Nowadays, the separation of powers principle can have varied forms, almost minor in cases, which span with four or five organs enjoying the prerogative of their entitled scope of empowerment. For example, Taiwan has five constitutional organs which exercises their power in the separationist scheme.

For the policy makers or administrators, the argument on the separation of powers principle would entail other side, which would go to a dual sovereignty between the state and federal government. So the federalism, as briefed above, would matter to derive more authentic, efficient, and universal ways to address the public issue. For example, the public policy students are required to ask which government could better serve to increase a fundamental liberty and equality. Is the state government or federal? They are also demanded to see the essence of democratic governance. What meanings of the fourteenth amendment brought a peace to the eyes of public? Is it proper that the federal government should play to mandate the states for abolition of the slavery or servitude? In the contemporary context of interaction or cooperation, we may also be tasked to inquire which government can effect the desired virtue of public. This requires us to be creative as the policy makers or administrators, but also drives us to survey a scope of juridical concepts yet in a critical standing. That would

not make us to be fruitless if the federalism as well as separationist scheme is of living nature constantly adaptive to the situation.

As argued, 1930's social change in the US would be most notorious to advance a package of new deal programs, which radically reshaped the liberalist paradigm of public policy. It involved a fundamental shift on the federalism and separation of powers through the constitutional history. The times were ripe to turn our concern to the evils and social wrongs incurred by the capitalistic drive. The capitalists made every effort to increase their business which was enabled in the preserve, i.e., the sanctity of property right and freedom of contract. It infringed with the basic human rights, and impaired the humanistic way of subsistence for the working class. The logic of capitalism was seen to be predestined for the accumulation of capital where the monopoly and oligarchy in the market paralyze an expected role of market mechanism. The Sherman Act dated a little earlier while key social legislations passed the Congress in the presidential initiative. The minimum wage law and maximum working hours were intended to enforce the balance between the capitalists and working class. As the civic republicans contemplated, the kind of social situation contradicted a genuine freedom of individuals, and also could jeopardize the peace of public. If we work as a policy maker or administrator, most of us would readily accept the proposition of balanced and social nature. The federalism intervened to contest that initiative, provided that the private areas rest exclusively within the preserve of respective state. For the minds of conservative, the sensitive civil issues should be viewed in stern dichotomy between the private and public. The government is seen to have neither power nor legitimacy to engage in this affairs. This theory and their basic perspective could be especially reinforced if the constitution provides the Contract Clause which proscribes the federal government not to impair the contract of private parties. While the Commerce Clause had played to increase the federal system over the century, the conservative jurists had been reluctant to endorse the new deal legislations. In this illustration, we are able to understand the interactive nature of federalism and separation of powers to shape and implement the public agenda, which is required in the criteria of civic republicans. The success of social legislation underlay a fundamental influence on the current form of governance in US. That is considered prevailing while we, for recent times, experience a neo-liberalism and neo-conservatism. Other interesting story concerns the court packing plan which President Roosevelt attempted to push forward his commission to welfare and economic or social justice. Paradoxically, however, the packing plan was cited in bad aspect to threaten the separation of powers principle. The plan to increase the number of supreme court justices and thus diffuse their power as weaker had dropped in the event, however.

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## **Chapter VI. The Principles and Processes in the Context of Democratic Governance**

### **1. The Principles and Processes In the Context of Democratic Governance**

#### **1-1. Democratic Governance and Policy Makers**

Democratic governance is most acceptable form of governance, in my view, squarely on much context (March J.G., 1995). I like to say some. First, we are trained to adhere with, and base or groups of people could be settled or resolved if any exterior variations approach them in the name of consensus or consent. Absent that title, we should certainly be less persuaded or often may not drop from our personal orientation or inside perception as well as belief system. So I suppose, in the point of humanity, that democratic governance is important to keep a persuasion and socialization of each individual. Professionally also, the policy makers and students should have to tend on this concept in planning, administering, and feedback moments of their policy. Second, the democratic governance is prevailing over a scope of modern organizations. Therefore, the concept can be textual and universal for the policy makers to keep up with through their professional career. Third, the concept of democratic governance facilitates to effect a specific policy based on easy mobilization and follower's adherence. It is general tendency for the people to resist on instance if they are commanded on any secret ground or other absolute context of orders. Fourth, public policy is generally addressed to the public in general, and thus their consensus or consent, in large part, proves the virtue or usefulness of specific policy in itself if we conform to the demand of democratic call (Rosenbloom, D. H., Kravchuk, R. S., & Clerkin, R. M., 2009).

I like to pick up some of principles and processes which contribute to democratic governance. Those include the rule of law, congressional hearing of the nominees for key public offices, and local autonomy for the cities and counties. Those are largely commonly shared by western democratic states, but to some differing extent in the practical context.

#### **1-2.The Rule of Law**

The rule of law constitutes a key element to allow democratic governance. In general, it enables the public to have standards or guidelines which they act in conformity therewith (Bingham T., 2011). A ruler or administrator could get easy to enact the statutes, laws, or decrees, and the follower also can only be submissive to settle their inner mind and action by way of laws. Then, both elements of the concerned share its role and system of law as an inextricable apparatus. Specifically, it should be plainly evident if we are disposed or determined to respect the standard of laws. We should not kill others nor steal other's property. Corporations are mandated neither to manipulate the price nor permitted to practice a fraudulent accounting as in Elon. Policy makers should obey the pertinent rules to process as prescribed in the public law of their job responsibility. They are required to act in compliance with the Administrative Procedure Act on holding a public forum or hearings before enactment of their public policy. The rule of law is designed to address the public sectors, but can touch on our civil, family and also organizational context of private nature.

For example, the member of corporate council may be impeached on the ground of violation of laws. The concept of rule of law encompasses a scope of elements, jury trial, judicial review, assembly body of making laws, independent judiciary, some distinction between public and private sectors and so (Bingham T., 2011).

### **1-3.A Congressional Hearing of the Nominees for Public Office**

In our daily experiences of Korea, the congressional hearing of nominees for public offices enriches a monitoring process of the pressure group and people in general. In Korea, we had less consciousness about the staffing of national ministers, heads of independent agencies, and other key posts within the government. Around the late 1990's, a set of public laws were introduced to expand the role of national congress to check and monitor the appointment of executive branch. The act required to conduct a hearing to investigate the nominee's person in whole including his talent, quality, competence, ethics and others, and they recommend or hold the propriety of appointment. It generally promotes the democratic governance in several ways. The congress can mediate to assess, on the representation of popular wills, the nominees to safeguard from any arbitrary or prejudicial exercise of appointment power. An open forum of congress offers the objective chance to evaluate nominees, which works to chill a secret or authoritative inside trade within the executive (Belloni, F. P., & Beller, D. C., 1976). The institution of congressional hearing enhances a political orientation as well as recognition of the public by democratic and intelligent way of congressional investigation. Specifically, we can exclude any troubling figures to be appointed. It is certainly against the will of people provided if incompetent, law breaching, professionally unethical or other turbulent nominees assume the key responsibility of government (Belloni, F. P., & Beller, D. C., 1976). It has worked fairly modest over our nowadays practice. One weakness seems to lie in its pattern of issues raised through the years. Plagiarism in the nominee's academic background, illegal or unethical evasion of military servitude, and high profile of personal wealth entirely dominated most hearings. For better practice, the issue needs to be authentic and should outflank easy popular appeal beyond the attribution from merely sensitizing issues. In terms of governmental ethics, the focus of review should divert its fields toward a serious professional and competence issue. In any case, Man-soo Han, who was nominated as a chief commissioner of national fair trade commission, was seen to deserve the public's awareness and his failure to drop his candidacy. He has a high profile trade lawyer in a major law firm in Korea, who has been specialized to defend the interest of Korean conglomerates. It fundamentally contra-mandate his expected role to administer the check and monitor for the fair trade and sound practices.

### **1.4.Local Autonomy and the Governments**

Third, the local autonomy for cities and counties can be viewed to interplay in principle and as a required process for public policy makers and administrators (Berman D. & Sharpe M.E., 2003). Local autonomy connotes in a differing origin concerning a dualism on the federal and state government. While the state is original in the framework of national government, cities and counties are never original, but to be endowed or derivative from the state or national sovereignty. For this element, the issue of local autonomy generally pertains to an administrative or democratic concept while the federalism concerns a sovereignty or

supremacy issue. The point, therefore, comes similar in a scope of issues, but could differ if the state still plays in the level playing field of federal constitution. For example, that is an issue whether the state is amenable to the jurisdiction of federal court. Or we also need to think whether the Article IV due process concept can be applied to the state government if we were in the 1850's. We are required to deliberate whether the federal government can impose the tax on state entities or vice versa. Local autonomy may have an expansive use. However, it often refers to the decentralized form of administration in a unitary state or for the cities and counties in the federal union. This concept suggests a useful instrumentalities to serve the democratic dynamics of local entities. This can well bring an efficiency and harmonized consequence in public administration as a corollary. Local autonomy may serve to invigorate an international cooperation these days. The term of city politics and urban consolidation profiles a strong strand to induce the foreign investment across the global cities. That unit is rather flexible to interact with the private capitals, and could pull the concept of civil leadership in the boost of local economy. They are elementary, and the people of specific locale know better than any others in raising their community (Berman D. & Sharpe M.E., 2003). The local autonomy can increase their essence to interact, and more desirably in the democratic ways. The concept specifically governs our day to day workings in some of democratic experimentalism, and empowers their responsiveness.

## **2.Economic Justice and National Pension Plan**

### **2-1. South Korea, Developmental State and Its Democracy**

One of hyperboles seriously concerned by the Korean people over the election times had been an economic democracy. The backdrop for this issue arose from several reasons given Korea is one of state-led capitalism over the decades. Korea has a wake of developmental state paradigm. Its western model of democracy was, by exterior governance, endowed to erect a post-colonial independent nation (Chand, V., 1997). We welcomed to have the government by the people, of the people and for the people. Korea was highly motivated to demolish the Japanese rule, and turned down the trusteeship alternative of governance for then born nation around the late 1940's. Other than the delegated rule from the major powers, Korea has an election under the monitoring process of UN. Grant-based economy grew in the period of 1950's. Since 1963, the military-led, so thus efficient, administration pushed its program of national economy on a staged basis. This initiative shaped the state as one of newly developed economies in the world, and in other name, Korea was called as one of four tigers in east Asia (Woo-Cumings, 1999). This drive continued, notwithstanding other competing voices, until the tragic end of 1979's assassination of President Park. In tradeoffs of other civic virtues and democratic essentials or desirables, Korea turned to profile highly in the international arena. Over time through the current years, Korea achieved remarkably by obtaining an OECD membership, the status of world eighth economy, producing the UN secretary general, world pop singer Psy, famous skater Yoen-ah Kim, which, in all, evinces its greatest leap into a kind of developed state. This kaleidoscopic or compressed pathway for national success, in other dimension, has grown a resentment for some group and often raised a social justice issue in Korea. Some critique saw Korean conglomerates as just an artifice of Korean government where their growth was, in much depth, dependent upon the support of it (Woo-Cumings, 1999). A number of Koreans largely

feel some of entrenched injustice from the structural and historical reasons. Worse around, the polarization issue in the Korean society now often features in depressive ways. A suicide rate of Korea now must ranges within the top tier according to OECD statistics. Aged people increase in a remarkable speed swaying in the gap of generations. The middle aged group largely could not concern their retirement in any predictable or stable lenses. National pension plan was limited, and their job security is not so strong. Economic justice, then, has been a serious issue often sensitizing the public through national elections, particularly in the 2012 presidential election.

## **2-2. Economic Justice and National Pension Plan**

Over the scope of issues on economic justice, one subject triggered to reform the national pension plan in fair terms in one aspect, and in order to respond to the short base of national balance in other aspect (Rosenbloom, D. H., Kravchuk, R. S., & Clerkin, R. M., 2009). We have relatively affluent system for a selected group from the traditional sentiments of Korean people. The persons in engaging a teaching profession of public schools, and governmental employees are ensured of their retirement years with the pension program. Necessary funds are contributed equally half and half basis from the government and person's monthly salary. In the phase of stable and slow pace of development, Korea now likely follows the pattern of developed capitalism with the growth rate 3-4 or 1-2 percents. It implies that Korea has gone out of benevolence or advantage from the stage of initial or secondary dynamics. The state-led developmental strategy largely diminished to less effect, and most players have been put to subject to a fair competition in the national or international market. This turnpike presses the public to turn their eyesight to the issues of social justice through the recent decades. To illustrate others, we can know the circular ownership or investment for Chabol also comes in same angles of public focus. New president, Keun-hye Park, also had promised a happiness funds to immunize chronic debtors to restore their economic engagement in the society. In this context, the issues of economic justice had prevailed in the election, and continued to be monitored by the pressure groups and public forum (Rosenbloom, D. H., Kravchuk, R. S., & Clerkin, R. M., 2009).

## **2-3. Economic Justice : The Concepts and Principles of Democracy**

In relation with the democratic principles or processes, I have several points to deliver, which influences to formulate the issue of economic justice.

First, I like to point out the “main powers” to shape a public policy and “pressure groups” to interact. As we learn, the international monitoring role over free election, problematic over time in many underdeveloped jurisdictions, are essential to keep the UN supported civic virtue (Chand, V., 1997). This would be the most enhanced form that we see as a pressure group in the international community. A vast scope of NGOs now also raise its voice to store or propose the right ways that the main powers have to respect. For example, the environmental groups perform a committed role to have made it forefront a long perspective of our descendants. They worried seriously about a massive exploitation of natural resources, which would incur a permanent danger. Their concern could be squarely right over our experiences of air pollution or climate change. As we see, the



environmentalists would generally power from the less developed group of nations, but the US administration also shows a concern in different logic or ways of approach though. In my dichotomy, a typical example can be drawn between WTO and concerned NGOs. WTO could perhaps be a main power to administer the trade regime of international market, but concerned NGOs would play to advise or monitor its economic policy. This interplay can also be found in the national context, and of course, including an issue of economic justice in Korea. If the Korean government is committed in the principal responsibility, other actors or pressure groups are also powerful in non-negligible force to keep the nation's direction to the desired form of justice.

Second, lobbying activities comes to influence the shaping of particular public policy. There are tendencies, however, to perceive differently about its good and bad nature concerning the democratic governance (Nownes A.J., 2012). For example, socially powerful groups may lead the public agenda to be distorted deviating the general wills of society. In other context, it may serve to shape a high level of strategic policy, which could be one element of deliberative democracy. Over the dormant public, lobbying activities may invigorate the insipid public agenda which congressmen could otherwise be advised or motivated (Victor, J. N., 2007). The lobbying activities could come maleficent if they are connected illegally with a bribery or any context of corruptions. Nation's standards or practices would differ on this dualism. In view of Korean principle and democratic practices, it is also less clear how they are regulated or advanced to boost an informed or intelligent politics. Generally, Koreans perceive in rather negative stance, where we have strong criminal laws as well as ethics statute or decree. In dealing with the issue of pension, there involve multifaceted elements covering the sanctity of profession, the level of regular imbursement, economic capacity of the nation, welfare standard of the middle class, and so on. The lobbyist groups could be diverse, and pressure group would mediate to create a best desired outcome of deliberation (Nownes A.J., 2012). The trust of political leaders and key policy makers is also a criterion that the public continue to watch. On this interaction, the lobbying issues shape a deliberative paradigm for democratic governance in Korea.

Third, a faction or tendency in addition to the party system also critically matters to define the policy directives on economic justice. The ruling Saenuri party as well as opposing democratic party have a common adherence for welfare and fair distributive system. Saenuri party often had been considered a liberal and conservative tone of political ideology, however, that context fairly diminished on the occasion of various recent elections (Belloni, F. P., & Beller, D. C., 1976). Some critique, thus, attributed a party politics in Korea as one of populist democracy. This view is not incorrect if we have series of restructuring during as short of forty years of constitutional history. Party names have frequently changed, and the key members as well as their followers gather to create new parties or divide them into split entities. That is not conforming to more stable basis of US politics in terms of party system. Paradoxically, the tradition of faction or tendency has been less serious given their easy coupling or divorce from the established parties. Different views or perception no less frequently has led to dissolve the party itself while the ideological or practical dominance of parties over their members are prevailing. Thus a faction or tendency generally less factors Korean party politics. Despite this, the context has same attributes as that of US southern states (Belloni, F. P., & Beller, D. C., 1976). The election times allow the manifestations of faction by divulging a genuine interest of politicians. The factions work to have a nomination for candidacy for the public offices. They usually have a leader in line of hegemony

concerning the intraparty power relations. It would be scarce for the members to have a tendency on specific public issues. Their political fate on election, however, poses a serious challenge to adhere with their faction and leaders (Belloni, F. P., & Beller, D. C., 1976). Interestingly, the big issue of economic justice, in some unusual influence, induced a kind of faction in the Saenuri party. That is also because the issue is serious enough to affect the fate of their political career. As for general, their scheme was to appeal the public by showing a practicable vision and social program for the large of middle or deprived class. Thus, the major stream and key points of election engineering bought the concept of economic justice, which means, on the pension issue, a complimentary revision of the existing system. Jong-in Kim, who was educated in Germany and one of constitutional drafters of Art. 109 concerning partially planning economy, rose as a prime figure to steer the social policy package. He was aligned with Keun-hye Park, now the president of Korea, but some contras suspected to form an opposing faction. Han-ku Lee is a free market proponent to protect *Chaebol*, and had beliefs on the authentic power of market and liberal economy. In his view, the pension issue would become a fundamental point of revisiting to adjust with the neo-liberalization paradigm.

Fourth, the rule of law has a bearing to interact with the reform of national pension system. Provided if the pension has to be reformed to respond to the call of national economy, is it constitutionally permissible? The factors in this point of consideration involve some fundamental dilemma around the ex- post facto rule. The constitutional court had gradually turned to shield social rights from the absolute property concept. The right to pension, then, is the right to be protected, but the classic theory, sanctity of property and ex-post facto principle, can be applied to this area of policy issues (Epstein L.& Walk T.G., 2012). How would it be constitutional if the ratio of pension contribution were to be reshaped to lower the governmental quota of fifty percents. Any reform should be scrutinized not to impair already established share for the pension subscribers? A policy lense of thinking is powerful that we have some lessons in the previous case (Rosenbloom, D. H., Kravchuk, R. S., & Clerkin, R. M., 2009). Doo-whan Cheon and Tae-woo Noh have created a notorious illustration on this point. They have been termed a perpetrator of military revolt by way of juridical justice, and sentenced to death about twenty years ago. They served as a president respectively for seven and five years in Korea. Their legitimacy was forged by their military might and by overruling the representative government in 1981. This is the viewpoint that the criminal court rendered for their coup or alleged investigation activities of Mr. Chung, the General-in-chief of Korean Army in 1979. Mr. Chung was a legitimate commander to support the temporary government led by President Choi. Mr. Chun, a chief military investigator at that time, urged an investigation responsibility to arrest Mr. Chung, and Mr. Chun later rose to the supreme power of Korea. Long years afterwards, Mr. Chun was put to trial on their concerted action with Mr. Noh , and condemned with a capital punishment. They filed a constitutional complaint, and asserted that the laws are of ex-post facto nature to contravene the constitutional provisions (Epstein L.& Walk T.G., 2012). The statutory period elapsed to annul any indictment for the crimes, but the special statute schemed to dispose their case was arranged to infringe with their life and liberty. Their argument was rejected although the statute is precisely an ex-post facto laws as they argued. The constitutional court would certainly have diverted their role, which should be fundamentally contrary to the prevailing public sentiment and disposition on their fate. We can see some of technical issues if we are detailed, but the conclusion implies that the rightness of policy should, in the event, become

realized even passing over the explicit language of constitutional document (Rosenbloom, D. H., Kravchuk, R. S., & Clerkin, R. M., 2009).

## **2-4. Concluding Remarks**

Among various principles and processes, I made a point of pressure group, lobbying activities, faction, and rule of laws, which involve an issue of economic justice. There would perhaps range aspects of policy review which should be seriously scrutinized to shape a most desired form of national pension plan. I rather waived a detailed discussion on specific points, but intended to show how the principles as well as processes serve to create the final system of specific policy issue. One lesson over the course of discussion is that the principles and processes do not have an absolute primacy, but the elements which the specific society can influence and interact for the policy makers to adhere with. A national passion, sentiment, culture, tradition, and many other variants operate to expose some acceptable practices. They may play higher beyond the written law in some cases, but may see it adverse or unpleasant although other nations import it as an important tool like in the case of lobbying activities.

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## **Chapter VII. Documented Concepts and Principles**

### **1. Documented Concepts and Principles**

#### **1-1. US Democracy and Its Concepts or Principles**

The Independence of United States from the British rule has brought a founding consequence in the contemporary understanding of modern democracy. The US is an original state to create the constitution and base their legitimacy of political power on that document. The colonial states have respectively enacted the basic law named constitution, but its status, in technical hierarchy of law, is just a statute on the initiative of legislature. This means that the constitution, at any time, may be cancelled or revised arbitrarily based on the resolution of state legislature. On the adage concerning the law, “new law always revoke the old law,” which had been the practice of colonial states. The federal constitution was framed in other fundamental deliberation, which made it heavier and imposed a multilayer process for revision of the constitution. This enhanced it as a supreme document for democratic governance, and the higher law concept espoused by the ancient common law lawyers, Sir. Coke and Blackstone, was resurrected in a tangible way. By creating the federal constitution, it incorporated a scope of concepts and principles that modern democratic states have long followed thereafter. Given its status as the supreme law of land, judicial review can be, in due course, legitimized as a matter of theory and definition. This self-evident rule of constitutional control against the arbitrary exercise of governmental power was confirmed in *Marbury v. Madison*. Chief Justice John Marshall announced “a law repugnant to the constitutional is not the law of US.” This practices have worked to safeguard the inalienable rights of minority from the majority rule. This institution, based on the idea of higher laws and inviolable human rights, was imported by vast scope of jurisdictions on the earth (The U.S. National Archives, Virginia, 2010). The US constitution also adopted the presidential system of government which a majority of countries now modeled after as outnumbering the parliamentary form of government.

#### **1-2. The Bill of Rights**

Along with the evolution of US democracy, most notable concept perhaps would be found in the bill of rights. The bill of rights can be traced to the British tradition enshrined in Magna Carta. Magna Carta was acquired, in an intense struggle between the barons and King John, to delineate a set of fundamental interests for noble warriors (The U.S. National Archives, Magna Carta, 2010). The rights set forth in the document encompassed a scope of feudal rights which could not be abridged arbitrarily by the King. We generally consider it distinct from the universal version of human rights, but the idea and preserve of interests or rights could share many of common elements now endowed for the people in general. The context was exacted in the course of creating the US constitution, and the words, “We the people..” represented in the preamble forged its idea into new political order at the end of the War of Independence. The people, in this concept, would approach also selectively until the slavery and servitude were completely dismantled after the long wake of interaction. An universal suffrage, achieved throughout the enlightenment and social consensus, also contributed to popular democracy later in time. The bill of rights was declared and

incorporated into the Declaration of Independence, and was firstly adopted in the state of Virginia (The U.S. National Archives, Declaration, 2010). It was pioneering to later provoke the universal declaration of human rights into a revolution spirit of France in 1789. The universal declaration stays still in force as a component of the French constitution, and also came into play by being incorporated as one of UN documents. The human rights concept has now widely been preeminent for the policy makers and jurists, which offer a critical standard between “private v. public,” as well as across the life and liberty, property rights, and rights to contract. The concept plays a role to safeguard an individual freedom from the excessive government or arbitrary rule of majority. It also erects a paradigm of liberal democracy against any form of totalitarian or authoritarian government. Other interesting practices of court involve “unenumerated rights” intended to protect in the Constitution. The court bases the clause in delineating a specific right like the privacy right. The privacy right was never made explicit in the bill of rights, but the court recognizes it on that basis to adjudicate the abortion issues, gay marriage, and others (410 U.S. 113, 1973).

### **1-3.Private v. Public Principle :Libertarian Point of Deliberation**

The US constitution has two significant provisions, what we call the contract clause and due process of law (The U.S. National Archives, Constitution, 2010). The contract clause prevents the government from intervening into the private nature of contract. The clause, however, can also be limited in certain circumstances. It serves to underplay the freedom of contract where Minnesota could, on public reason to combat the economic depression, enact the statute to temporarily stall the mortgage holder to foreclose (290 U.S. 398, 1934). Other illustration may be drawn from the case, Shelly v. Kraemer, where the lease agreement contains the clause forbidding a sublease or assigns of the leasehold interest to minority race (334 U.S. 1, 1948). Can the court enforce the contract as agreed? It is a delicate question, and involves multiple issues of the constitution. The court enforced the contract as agreed, and the black assignee petitioned for constitutional review on the ground of equal protection of law. The constitution is a public law in legal theory, and the court adjudicated on the contract theory in its own competence. However, as the court is a governmental branch, the state action theory supervened to raise the problem in the light of constitutional controversy. So the equal protection of law principle applies to bring the issue into the constitutional deliberation. In this case, the public or social justice overruled the sanctity of private contract, but over long history, the contract clause operated to preserve the integrity and inviolable nature of private contract.

### **1-4.The Separation of Powers, Federalism and The Commerce Clause**

The separation of powers principle should come into our consideration if the idea is original in the tripartite scheme of federal government (The Library of Congress: Thomas. No. 51, 2010). As Jefferson strolled seriously between the democracy and republic, the principal assignment for the federalists focused on the concern of how to organize the federal union. (The Library of Congress, Thomas. No. 10, 2010). How to efficiently and legitimately band the necessary functions into the branches of government should be their prime points of deliberation. This can be plainly exposed in the structure of federal constitution. It has seven

Articles which principally dealt with the structure of government and some of issues fundamental to the federal and state dualism (The U.S. National Archives, Constitution, 2010). The bill of rights was, later in years, introduced in the form of Amendments being headed by the First Amendment. As we read, Jefferson have ideated a most proper form of representation to overcome a faction and practices of schism while planning on efficient crosscheck and interplay for the conflagration of national and public agenda. His comparison, by means of large and small representation scenario, actually was wise and foundational (The Library of Congress, No. 10, 2010). Bicameralism had, thus, been instituted, particularly in the context of democratic representation. This institution, as in the case of presidential system, also enjoys much scope of followers for modern democratic nations. The idea of tripartite system was also intrigued as we read the essays of Hamilton in the federalist paper. In line with Montesquieu concept, the judiciary was highly envisaged to play their intrinsic role for the integrity of federal system

The Supreme Court has not disappointed the drafters of federal constitution. It actually has been a chief organ to address the fundamental national issues about the federalism and human rights (The Library of Congress: Thomas. No. 78, 2010). The Commerce Clause offers a nexus of adjudicatory ground to bridge the federal power with the state government. The federal powers were limited in theory as prescribed in the constitution. The dual sovereignty between the state and nation posed challenges seriously in the inchoate years of US history. We can know the Gibbons, which oriented the justice administration toward the national uniformity and federal supremacy (22 U.S. 1, 1824).

They, however, were never settled to see the intense sacrifice of civil war in 1860s. Thirteenth and fourteenth amendments were incorporated to universalize the sacred mission of democracy through the state context on the issue of slavery and servitude (The U.S. National Archives, Constitution, 2010).

Still the Commerce Clause operates extensively to outlaw the state laws and regulations, which are found to abridge the free flow of interstate commerce in the nation (545 U.S. 1, 2005). The supreme court struck down the statute imposing a weight limit of transportations on the state highways. The court considers a legitimate and reasonable ground of state regulation. The court also delivers a point of focus whether the regulation incurs undue burden to interstate commerce.

## **2.Literature on Democratic Governance**

### **2-1.Three Articles: Evaluation of their Quality and Credibility**

Democratic governance has been popularized through the scholarly assumption, but its exact nature is actually controversial and also in needs of being recast given the transformative nature of various levels of community. As Thomas Jefferson made his case on the republic, the democracy is fairly idealistic, but may get reticent or pose the challenge of no or less substantiation (American Constitution Society, 2013). While the diversity, rule of law, majority rule, liberty and others provide a slot of principles in understanding of democracy, the ways of practical dealings and interplays are largely remained unanswered.

As of its weighty importance for public administration students, I have been sanguine to advance perusing the internet sources to prepare for this week assignment. I applied the Boolean search method by typing into the Walden library (Walden University, 2013). The key words were democracy as well as democratic governance, which enabled me to retrieve the articles numbered about 150s in the Academic Search Complete. I initially had minded to reduce the key words in more specific terms, but the materials came rather within my ability of analysis. So I proceeded to evaluate the journal articles on the guideline which a Cornell librarian formulated for the professional aids of research activities (Engle, M., 2008).

Three articles I have selected have fallen with the class of scholarly nature. The articles were presented with the citations attached in conformity with the professional requirements (Walden University, 2013). It has a portion of lengthy pages to analyze and synthesize the issues in a scholarly manner and ways of deliberation. They all were intended to convey the information and messages of authors on a logical and scientific ground (Engle, M., 2008). The evidence were offered to enhance their argument in objective stance, and increased their credibility and authenticity. They were generally restrictive on their presentation of theme in any sensitizing ways (Engle, M., 2008). They were communicative with other peer's works and viewpoints, while intending on academic contribution to the field of democratic governance or democracy (Engle, M., 2008). The articles, therefore, are considered to be creative to add the resources for scholarly treasure in the field, which means they did neither duplicate nor merely translate, nor summarize from the current version or established knowledge on that topic. They produced a new knowledge and ways of new perspective or discourse in creative ways. They are considered to deliver their argument and proposition on the facts, and touched on the issues in a never antiquated context, but readily referable to verify for the case of peer researchers (Engle, M., 2008). This corroborates with my assessment on the truths, reliability, credibility, and also on professional competence, having been interactively measured on their ways of dealing.

The factors I have meditated on this assignment lie in the inquiry of how the concept could be reposed or adapted in the vexing circumstances of international and national transformation. We generally hold the idea of democratic governance supreme over a local, national, and supranational framework, but their precise course of application is uncertain, ambiguous, and in some cases, gotten blighted by confusion. Three articles, in this point of consideration, may work to bring some ideas, not thoroughly or structurally though, as leading me to foot on the complicated, less defined, and interwoven sectors of contemporary governance issue.

## **2-2.A Brief on the First Article**

The first article was intrigued on the emerging rights to democratic governance, which was authored by the international law professor of LSE. As a scholar of international law, he was inspired by Tom's works having a purview of new concepts, views and observations, as well as prongs in compass spanning the contemporary development of international politics (Marks, S., 2011). Given his disposition as a legal theorist, Tom's works perhaps would be provoking if presented with the words "right" or "emerging rights." As the plane of argument goes international, we may be more honest to say elements should be drawn from the "politic or dominance" rather than any set of refined rules or its concrete process of enforcement. The article's predisposition, therefore, can be presaged by this delicacies, but the author has drawn his case in very persuasive ways based on the phenomenon we experienced as well as on the genuine dynamics of democratic or political



practices of constituent nations and international organizations. He has largely intended to develop the version of Tom's, but in some context, showed a skeptical position. For example, his rigidity from the legal theory can be less compatible with the emerging rights if the treatment of state recognition or status is agnostic other than newly arranged (Marks, S., 2011). There also is an important point to be arguable, which means framing an enforceable nature of new essentials or emerging rights in his predecessor's word. In the plan to deliver his thesis, however, we can see his extensive interests and persuasive churning over that delicate and seed creating argument of democratic governance. His political and constructive insight seems prone to lay a theoretical cornerstone for some envisioned adaptation of the international law for possibly a new framework. His focus of analysis about the democratic governance and new emerging situation in the international arena is simple, but core-touching on the legitimacy, security, ideology. He finally addressed the typical point of contest by briefing the Haiti case, which was controlled for decades by UN and their pathways to realize a democratic governance in Haiti (Marks, S., 2011).

### **2-3.A Brief on the Second Article**

The second article also bears to devise some of theoretical modality to flexibly penetrate the contemporary dynamics of democratic governance. An author, Chris, teaches in the University of Birmingham, and was tempered through the complicated theoretical maps for a tentative design of democratic governance (Skelcher, C., 2005). His weigh in the discourse levels actually with the local, state, nation, and supra-national context. Thus the small city or locale, each state in federal structure, EU in regional, and UN as a most comprehensive organ, all fall within the compass of his deliberations. This led him to the key concept of polycentricism while the policy makers or public administrators are vastly intoxicated with a uniform application of public policy or centralized governance, hierarchy, command and regulation as well as control (Skelcher, C., 2005). His point is interesting to add the element of "jurisdictional integrity," which makes his case more practical to have a power of application over the conundrum of conflicting nature involving overlapping or competing jurisdictions (Skelcher, C., 2005). Hence, his idea is never artificial to overhaul or revolutionarily orienteer some of governance mechanism, but can well be engrafted to our basic understanding as well as foregrounds the current dilemma which the governance issue has to sally forward. His idea is insightful to persuade the public, who have a dormant or unattended inner mind and are generally gotten insipid or uninteresting with the traditional pattern of governmental practices. For the public who feel to manage without the government, his new dealings could well echo in depth for any future mode of governance. He was fairly exposed to vast of knowledge in dealing with his proposition, and also diligent by focusing and analyzing the floor level interaction in our habitats. His idea, henceforth, came within a similar posture that the prime ministers have long adhered with the role of British government. David Cameron's big society means what? None the pages on this context though, his idea certainly enlightens to recourse the basic resource of our small community and private powers to respond. Therefore, his Type I governance can well be matched with three types of new governance, what he classes as clubs, agency, and polity forming (Skelcher, C., 2005). His analysis is precise to offer the differences and comparisons among the concepts. His argument may approximate the federalism issue between the state and federal government in some aspect, but brings us more coherently through the various level of communities. His idea is principled, cogent, forefronted, and ingenious to present some

basics of framework, however. They may, for some circle, misunderstood to diminish the role of big government. We yet hardly deny its theoretical power to be applied to our case at hand.

## **2-4.A Brief on the Third Article**

Other article I like to draw upon come to have a focus on journalism in some harsh context of international dynamism. Mcleod, who teaches in the Department of Journalism of UW-Madison, argued some of fundamental roles of the media and press to interact with the democratic institutions. His point of contention involves a bias or prejudicial way of media coverage to distort sound flows of information (Mcleod, D.M., 2009). He, therefore, argued that it could cripple a formulation of public opinion and abscond its lead against our embedded notion of democratic governance. For the author, this should be considered a “derelict of duty” we envisage, and renege of long trusted role or responsibility of the journalism (Mcleod, D.M., 2009). Why do we attribute the media and press as the fourth branch of democratic government? The role of media, thus, is sacred, and essential to ensure a democratic process of governance. This can well corroborate with the views of our forefathers if given the First Amendment at its forefront of Constitution. If the time and history come in our deliberation, the contemporary times are prone to require more heavily the paradigm of journalism we hold through the bulwark of civic virtue. It is influential on an immeasurable extent beyond any other institutions if they initially orient the public to shape the mind or bud their opinion concerning a specific policy. The media and press actually are responsible for democratic governance, hence, the author perceived it as a derelict of duty. They have to be impartial and fair to provide an accurate fact, should honestly expose the controversies, and also should shed, in fair dealings, an opposition view about the mainstream perception. Their business also needs to be intelligent, conscientious, and scientific to some extent. In the situation of conflict, their role rose in more sensitive dynamism which drove us to riposte about the journalism. His beliefs and in-depth analysis about a scope of mishandlings in each episode revealed how the practices should have been made in view of democratic virtue and our honest submission to the governance that the media and press created (Mcleod, D.M., 2009). His illustrations cover a major fault of representative media businesses in US, and let us have a time of meditation on the recent turbulences. The atmosphere of security- adhering as well as concomitant public sentiment may be reconsidered in the multifaceted dimension. This complicacies and uncertainty in the international plane would go beyond the simpler form of process in the domestic jurisdiction. They bring a more strong need that the journalism practice has to restore their faith and genuine role long embraced and upheld (Mcleod, D.M., 2009).

## **2-5.Concluding Insights**

A review of three articles have led me to conceive some basics pertaining to the student of public policy. First, the governance issue can be brought everywhere and any moment if to involve a community and interested people. Second, governance, therefore, presupposes an ideology, goals and objectives where absent minds of any governor, class of policy makers, administrators could never deliver their role or responsibility. For example, security may go ultimate and most urgent in particular circumstances as in the post-911 terrorism of US. In other case, the humanitarian goals may surface most imperatively to restore a democratic governance. UN monitoring and surveillance over the African states or Haiti may get in this way. In some dimension, development agenda most powerfully

interplays to execute the responsibility of policy makers. Third, the mode of governance matters to respond to the emergence of new dynamism, as well as the transformation of society and human perception or beliefs. We can see the Type II governance would address growingly extended spectrum of various societies. New emerging rights to democratic governance are seriously looked into concerning the coverage of legitimacy, development, security, and ideology. This could be idealistically demanding, which can be reformed into hard laws. Fourth, the governance issue is not static, but to be a living process required to respond to the needs of respective community. The policy makers act generally on the laws, given practices, social ethics, and prevailing intelligence. However, they also need to be creative by constantly monitoring the floor level voice, social engines, and genuine resources. The journalism practices involve all the points presented hereto, but is particularly connected in keen interrelationships on this dynamism.

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## **Chapter VIII. Democratic Governance, Policy Network and Policy Tools**

### **1-1. A Brief on the Policy Network**

The policy network tends to offer substances to the formal institution where the committees or subcommittees in the Congress are typically engaged in their process of policy making. The concept is largely related with other neighboring ones, particularly where policy community and social network are most akin to its definition (Grant, J., 1990). Policy community is more enduring, statically responsible, and more structured to deal with exclusive sectors of public policy. Both terms may, in cases, interchangeable in use and recognition, but policy network would be a little issue-oriented, and can encompass the interested parties from outside that specific sector. For example, US agricultural industry are keen actors long lodged to influence the policy making process in interplay with the decision making authority of Washington (Grant, J., 1990). In that case, the industries fall within the notion of political community, but there could be other groups of interest for the specific issues of agriculture. Then, ad hoc involvement may be made by outside groups to correspond with WTO or FTA issues. It, then, can be more properly termed by political network. A definition of social network also comes not in absolute context, but would generally be understood in the light of social and communal elements with the less extent of policy process or economic colors. Their tenor generally directs a general and mostly informal web of interaction among the diverse forces of society, and points of focus were made mainly onto the disciplines of sociology, humanity, and psychology. Then, the policy network is more affiliated with the concern of economic occupation, sectors of industry, and polity as a subsystem.

### **1-2. France, EU and GMO Policy**

EU and US have two contrary norms about the GMO policy. Why do they produce two different policy outcomes. Thus, I enchanted to review briefly how the policy networks processed in the new area of science and technology issue intensified since 1990's. My focus was shed to the context of France. A policy area has been traditionally administered in the closed system where keen bureaucrats and expert groups had participated. The traditional ways of practice, however, were seriously challenged in the mid of 1990's, being faced with the GMO policy. Non-government actors and players, who had traditionally been excluded from the policy network, took an active engagement and mobilization. A group of concerned public eventually were viewed as European people, who were included, in practices of policy process, as major influence within the policy network (Jeon, H., 2011). In the development, decision making process concerning the science and technology issue, while being pressured or interacted with the public, could be considered as settled pathways for public policy making in this area. This reform of practices is actually innovative and reshuffling from the traditional rigidity on hard governance, which evinced a pivotal share of public in the decision making process of new science and technology.

### **1-3. Progress in Time, Actors and Players**

Over the period of 1973 through 1990, we can see a new focus of public policy on the biotechnology and its related industries. US piloted this domain, and later EU progressed on the modality of US. Under the direction of EU, French congress pursued an enactment of domestic law. However, political leaders and government elites had far less recognition, neither a policy position, nor the points of political controversy. The circumstances changed to concern, in a sensitive approach, hot issues which covered the GMO research and production facilities, and public notice of GMO products statistics. An initial response was made by Daniel Chevallier who led the team of congress for enactment. The issues were debated crucially in the process of public investigation provided by the 1976 statute being long practiced thereafter (Jeon, H., 2011). Concerned experts strongly opposed since the public lack a requisite knowledge nor the mind to deal with this updated area of science and public policy. The intra-government report, documented in 1997, acidly revealed this context that the mandate of “public investigation” should be withheld in this sensitive area of public policy. In this period, we can see three interested parties comprising a policy network (Jeon, H., 2011). First, non-government actors who were industrial people in GMO played a traditional practice of lobbying and were strategically supported by the US government. Their points of advocacy were two folds. The participation of public distorted a liberal concept of free market, and thus fair competition was diminished. It also could bring an ill consequence in the event that European enterprises in the same field became less competitive. Second, non-governmental actors, who were non-industrialists, played a limited role by a street demonstration or exemplary destruction of GMO products. Their publicity on the press and media was also less strong, but their influence should be seen powerful given the EU level of width distinct from the domestic progress in France (Jeon, H., 2011). Third, the science group was important to take an initiative against the gene manipulation and the strong needs of countervailing policy.

A phase progressed on different footings from 1996 through 1999. The public concern increased remarkably, and the GMO issue was recast from the basics and on popular movement (Pappi, F. U., & Henning, C. H. C. A., 1998). There could we chart three events in significance to shift the mainstream of social disinterest or unconsciousness. First, the science group split in evaluating the GMO issue. The experts of biotechnology raised their position more sternly about the policy needs to regulate and control the bioengineering practices. Ecoropa, as devoted to the environmental issue, led an organizing effort of new scientist groups, and they later created CRIGEN (Centre de Recherche & Innovation Gaz et Energies Nouvelles) (Jeon, H., 2011). Their viewpoint mobilized the power and influence against the capitalists, and academic research flourished to support their position. Second, Europe was then a captive of fear from BSE (Bovine Spongiform Encephalopathy). To say, around 1996, European people were intensely distressed from the food safety and public health (Zafonte, M., & Sabatier, P., 1998). This social atmosphere made it available on the general consensus of “prevention principle.” In this understanding, past practices on the risk and danger management were restructured in new promise, “we depart from the “aftermath dealings” on regulation and measure.” Third, the attempt to import GMO products into European market infuriated the people, particularly because time was not adequate that social atmosphere reached the peak of distrust and worse sensibilities.

## 1-4. Intensification, and Democratic Governance

The anti-GMO reaction in France gradually intensified, and eventually pushed the government to turn for more practical solutions. One transient incident was that GMO Bt corns obtained a government permission to land in the French market. The agricultural association responded by destroying a sack of corns located in Nerac. A Conference de Citoyens was held in 1997, and the conference was officially incorporated into policy network. Its final disposition directed a conditional permission. The policy making process was embroiled with court proceedings. Green Peace, Ecoropa, Friends of Earth, Agricultural Association collectively filed a suit in the Conseil D'etat, which action was to seek an injunctive relief for the suspension of government decision (Jeon, H., 2011). The turbulence eventually was destined to announce a Moratorium where the growing business of GMO products and its marketization was suspended. As France was initially a most active nation to support GMO friendly position, it was amazing to see their shift eventually. France led the Moratorium in EU level, and the wake of transitory progress plainly vindicated an importance of policy network. It is also lessonsome provided that the democratic principle of governance governed to yield the final policy outcomes.

## **1-5. Some Insights on the Democratic Governance and Policy Network**

In the context of policy network, the political scientists, in nature and at its practical extent of exposure, are primly disposed to study the structure of government and formal process of decision making. There are also practices of lobbying, and they tend to raise controversy about its pros and cons, or in terms of democratic principles. How do we connote this kind of less formal or off the track institutions in a coherent way is not definitely easy unlike other pristine concepts of democratic rule (Kiun, E. H., 1996). I am concerned briefly about points of its dynamism.

The policy network perhaps would exceed traditional notions of democracy in time and more essential to address our community issues (Imperial, M. T., 2005). The concept does not necessarily presuppose as their assumption the democratic form of government. In the totalitarian form of government, policy making and the actors or players to shape the public policy should exist. For the tribal rule in African states, there must be some need to make a policy, and the informal network could practice to produce a certain policy outcome. For the monarchy, the King should have a court to discuss the state agenda, and selective aids drawn from his base of nobility interact to support his ideas and wisdom. For the Tudor dynasty, the Star chamber, a technocrat jurists group, had led the society and determined an important policy agenda in a formidable atmosphere to increase the absolute power of the monarch. Most importantly to our thesis, the policy network still operates within the democratic prerogative. In the context of democratic governance, three points bring our attention to deliver the aspect of policy network. First, democratic governance is accepted to prevail the concept of policy network since the former is hard and higher in ways of formal structure and foundational immovable. In this context, we call a policy network as subsystem or subgovernment in some of substantial nature of interchange for better choice or option. Second, the democratic governance basically requires a neutral government under the fundamental command between the civil and public powers. Excessive occupancy, sometimes, arbitrary, of public power before the democracy made its advent brought a resentment, hate, reshuffled reaction by overhauling it for new framework. The crucial guideline has, as we are aware, been to divide on the private and public, in which better



government should be minimal, restrictive, neutral in the role of umpire, and distanced from the industries and society. They were demanded a sanctity and ethics of government was proposed. Third, the tendency was partly, but in very powerful ways, shifted in the phase of modern administrative, welfare, and positive state. The practices of policy network, however, have been never uniform over the countries, which should differ from the fairly settled understanding of democratic governance or popular pattern of modern democratic constitution. There may be factors to shape the differences, which could cover the conservative v. progressive, tradition of intelligence and social attitudes, national history of modern democracy, and others. For example, Korea would be one of nations which is reluctant to advance any active role of policy networks. Korean people generally favor a sanctity of government other than an intelligent decision making or informed decision of public policy. They have less culture or modes of subsistence to interplay with the government. The government is just ruling, and they receive its command or direction. Western democracy, in Korea, was designed by selective group of elites under the external influence and direction. History was interrupted to discontinue a pattern of public as well as private life, and the training or advancement of citizens largely remained unexploited. This phenomenon had been dominant, yet on steady progress toward the practices of original nations. We have been shrouded from heightened formal institutions, but the substances or elements of society left unaddressed at gross extent (Thatcher, M., 1998). Between the democratic governance and policy network, the concept of deliberative democracy needs to be revisited. We are friends as well as constituents of common society where policy makers and interested parties can interplay to produce a better policy outcome. Particularly if the society and industry evolve extensively and on higher context of influence, the web of networks or policy geometries in substantial representation of the societal or national interests seems workable and helpful to administer the public agenda (Stich, B., & Miller, C. R., 2008).

## **2. Leadership and Implementation of Public Policy**

### **2-1. Two Koreas**

For this week discussion, I like to compare the national policy of Korea against the northern regime now led by Jeong-eun Kim. Jeong-eun Kim is a younger leader ever in the world history, and a generational successor of state leadership for North Korea. He succeeded on basics of his predecessor about the nuclear issues and pursuit of military superiority despite their deprived economic conditions. His less career, inexperience, and youths are now a point of worries by many analysts of international politics, which may initiate a provocation or aggression to break the peace regime in east Asia. The worries are not ungrounded if we monitor the progression over months in this region. News in Korea routinely heralded an aggravated confrontation between both Koreas and its allies. North Korea seems definite on their nuclear policy and shows no sign to withdraw from the planned missile launch at this point of time. There is a historical wake of interaction, and the relationship seems to be seasonal if the attitudes or posture was to shift. It is a positive progress that President Park recently proposed a dialogue and ways of collegial interchange to relax the tensions and hostile confrontation. There is a history between two Koreas and other interested allies. Six party talks had been arranged to extend a peaceful and agreeable consensus of nuclear issues in Korean peninsula. The food grant program was implemented in exchange and economic cooperation also was pursued in the Keumkang mountain tourism business, and Gaesung industrial district (Sandfort, J., Selden, S. C., & Sowa, J. E., 2008). UNCTAD intervened to

develop La-jin and Sun-bong zones to boost the economy of North Korea. Now Gaesung industrial district was abandoned since the workers of north origin removed in the command of northern government. The firms and enterprises housed in the district now have to cease their factory operation which incurs a tremendous amount of dollars in business loss. Then how this process, over time, can be understood in terms of leadership and in the preserve of public policy studies (Wiatr, J. J., 1988).

## **2-2. Legacy and A Brief Profile of Three Leaders**

Two leaders of past government in South Korea need to be introduced, who are called Dae-jung Kim and Moo hyun Noh. They served, in aggregate, ten years as the president of South Korea from 1997 through 2007. They typically are ascribed as progressives, but in some aspect, being radicals with less awareness of seriousness posed by the challenge of North Korea. A political background can be properly viewed as minority tradition since they are based on Chulla-do, which region has been discrete and underprivileged. They also base their political affiliation with an opposition party called as democratic and peace. Both of them are cultivated and intelligible despite their less of formal education. Dae-jung Kim has a long political career squarely exposed to a scope of national issues, and seriously studied independently the national economy, diplomatic strategy, and democratic ways of governance. He had long been persecuted through the time of harsh years, but eventually rolled back to the supreme position of Korean government. He is internationally renowned who received the Nobel peace prize in 2000, and demised in 2011. In view of selection of political leadership, he is highly probable since overexposure to policy issues may well be charted over his decades of political career (Prewitt, K., 1965). Moo-hyun Noh was his successor, and had long practiced as a human rights attorney. His debut into the political arena was dramatically spotlighted in the congressional hearing against Chun and another Noh. He may fall within an unexpected class if the stratification thesis is applied in selection of leadership (Prewitt, K., 1965). That is because his family was not economically privileged or socially prestigious group. In view of his profession, the chances would differ as his work enabled him to be concerned of sensitive and inquisitive public issues normally. He made much achievements in advancing the human rights of socially vulnerable class, and later became the president of Korea. But he shocked the public of Korea by committing a suicide upon excessive pressure from the criminal investigation in 2010.

Other leader is Myung-bak Lee, who was the president of South Korea serving from 2007 through 2012. He was a successful business figure, and long esteemed as a role model for Korean business people. His personality is usually perceived as stubborn, path-goal oriented, and merit-based judgment about the public agenda. He achieved much of business success over the period through 1970's and 1980's. He won two public elections leading him to congressional position as an assembly man as well as a mayor of Seoul city. He increased his profile and popularity by taking the mayor position of capital city in Korea. This enabled him to successfully pursue the presidency, and led the administration. His political affiliation was with the major party, and can be compared with two figures formerly described.

## **2-3. Similarities and Differences**

In leadership conditions, they share a vast scope of similarities since the government of Korea is basically same and dominantly conditioned on stable resources, policy network

and policy tools (The Johns Hopkins Center for Civil Society Studies., 2003). There is neither constitutional reform, nor any distinctive measure by means of new enactment or regulations. The economic condition was dominantly constable if some of growth was reported to correspond with the years of lapse. They share similarities on the same extent of authority, positional power and influence, and tripartite dynamism of constitutional branches. They all were critically determinative to orienteer the basic national policy (Boin, A., & Christensen, T., 2008).

In the aspect of differences, we can note that they are ideologically contrary in shaping a northern policy. While some saw them socialists, Noh and Kim share a same policy position as progressives to ameliorate the relationships. Political scientists in Korea often call it a “sunshine policy,” which pursued to pacify the tension and to assuage an aggressiveness of Northern regime (Schneider, A., & Ingram, H., 1990). Informal aids and food supplies had been regularly practiced, and some sources allege that a large amount of dollars were offered to improve the kindred-ship and partnership toward an ultimate outcome of unification. This conspiracy once was seriously depraved by public antipathy and resentment. That was because the aids and grants were allegedly appropriated to increase the military capabilities of North Korea. They saw it irrationalities to be attacked at Yeonpyung-do. It also raises the sense of regret to see the incurable stance of nuclear development. In any case, there had been a mood of amity and peaceful co-existence in both Koreas. The atmosphere turned sharply at the seizure of power by Myung-bak Lee. His political proclivity was highly conservative, and the affiliated party also endorsed, over a period of time, that policy direction. They recast the issues of two Korea, and reversed the mainstream of policy. The aids or grants were discontinued, and the established network of cooperation was minimally managed.

## **2-4. Leadership Seriously Matters**

Afterwards, the tide of interchange had gotten impotent, and the tone of propaganda from the Northern regime has been definitely worse and aggressive. That leads the people of Korea to public fear and instability from the threat of war and nuclear programs. Leadership is really important to affect our reality, which should foreground any other policy tools. Public policy is eventually engineered by and destined to the policy makers or leaders. Sanctions, contracts, grants, partnership, laws and regulations, and other tools as measure and means of implementation are important, but the leadership is most powerful factor in delivering the policy outcomes. As we learn, the leaders also are any powerful medium to increase a “public organization” into the dimension of “public institution” (Boin, A., & Christensen, T., 2008).” Koreans are now seriously concerned of which leadership tradition would influence both Koreas into a kind of public institution, idealistically for unification. We now actually experience an unstable stage of public organization hardly clarifying any vision or stable practices. Of course, there could well be a group of people who are skeptical of unification. It is also challenging issue who bear the expense of common welfare if unification were to be realized.

## **3.The Policy Tools and Some Thoughts**

### **3-1. The Policy Tools and Earlier Childhood Education**

The policy tools are explored and chosen to most finely suit the specific agenda

which the policy makers attempt to deal with. For example, the earlier children education is a serious problem that the government needs to involve for various reasons in the United States. The policy makers can employ a scope of tools, i.e., sanction, grant, contract or partnership, voucher system and many others, but the effect is not certain to yield a definite answer around the options or alternatives. Sandfort and others employed four cliché of analysis to investigate the effect of policy tools about the earlier childhood education which includes management and program effectiveness as well as outcomes (Sandfort, J., Selden, S. C., & Sowa, J. E., 2008). One other policy area concerns an urban sprawl in Omaha, Nebraska where the policy makers pursued a moderate and publicly affordable balanced growth (Blair, R., 2001). They applied a scope of tools over the sectors of urban focus, and eventually evaluated a best modality of urban sprawl control in the United States.

The policy area in early childhood education is delicate in several points where the social mission of government may well merge to administer in a relatively uniform fashion. First, the education may neither be diverse nor specially designed or individualized unlike the college or higher level of education. The nature of education can be ecumenical over the jurisdictions where most part of interaction or classroom activity remains for care, basic learning and sound ways of subsistence. They are less factors of liberal market or open competition in my view. I am not definitely sure, however, I am dubious how many oppositions are if the area of child care service were to be largely merged by the government-led public program. That would differ from other sectors, such as the fire arms, tech business, or automobile, and others. The supply side is less organized nor high voice of interests in this business. Second, the intergenerational gaps in opportunity may be touched on to ensure a social or substantive justice of society beyond the formalistic concept of equal opportunity or laissez faire. So we may agree that there can be a feature of idealism to pursue some of socialization project concerning the early childhood education. This grounds a policy maker or administrator to be more robust or stay in continuum over the change of government. Third, it boosts a middle class of workers providing the child care service as publicly funded. They are pillars of our society, and they can get better with the cheap child care service (The Johns Hopkins Center, 2003).

### **3-2. Strengths and Weaknesses, and Effectiveness for the Desired Change**

In addressing the policy agenda, we may explore several policy tools covering a voucher system, grants, contracts and partnership. I believe that the partnership tools are most effective and comprehensive to ensure better outcomes. There are four elements to contest the policy tools, which provides a management capacity, management outcomes, program capacity and program outcomes (Sandfort, J., Selden, S. C., & Sowa, J. E., 2008). As for the policy makers, program elements are keen points of concern. The program outcomes would be paramount, and normally is a final parameter for evaluating their commitment. However, the case study could not offer a definite answer about the partnership arrangement in New York and State of Virginia (Sandfort, J., Selden, S. C., & Sowa, J. E., 2008). There are strengths and weaknesses in the scope of policy tools.

The partnership has strengths in its comprehensiveness and flexibility. It basically incorporates an interplay between the government and service providers in a constructive and responsible way. By instituting a partnership, they share the policy goals dynamically, and establish a common ground on ethics, value, and moral orientation for the public. In the system, the service providers are no longer a passive player to be reduced in specific

agreement nor grant exploiters. In other two supply side tools, the grantees or contracting providers generally view themselves as an independent business merely obliged by the terms and conditions stipulated. Grant tools normally tend to procreate a relaxed understanding of service providers (Sandfort, J., Selden, S. C., & Sowa, J. E., 2008). This, therefore, leads to produce a stable compliance on management capacity as well as management outcomes. However, it seems less effective to motivate the service providers in a higher extent of devotion and intense engagement. So the conditions need to be adequately shaped to remove this weakness. The contract tool is distinguished on its bargain and exchange nature while grant is generally gratuitous. The contractual arrangement, on this basis, comes as a better alternative since the government may spend less. In the taxes or fiscal issues, the contract seems superior to grant. A tax increase or other budgetary constraints may pose less challenge in the latter case. Practically, however, what terms or conditions are agreed in both tools would shape the nature of problems in the fiscal context. Voucher system has been widely used to serve the business or management purpose. It shed its ways of approach on the consumer side, which is less organized or less responsive. So the policy effect may not be returned in some tight or expected pattern of returns (Sandfort, J., Selden, S. C., & Sowa, J. E., 2008). The voucher system, however, is strategically strong to saver the public intervention from the suppliers. Then, the chances of corruptive practices would seem possibly diminishable. Of course, that is not always the case depending on how the policy tool was actually designed to implement as well as general standard of the ethics of public employees.

I like to propose several criteria in evaluating the effectiveness, strengths, and weaknesses involved in policy tools.

First, the market factors should be a basic point to be compared through a design, selection and feedback of policy tools. What advantages or distortions would lie if the government lets them go alone or is engaged to intervene. An assessment would underscore the method of cost and benefit analysis. How much the cost was input, and what amount of quality service for the child care or education was yielded can offer one point of consideration.

Second, the political factors are never out of concern if there is no definite answer to persuade the public or interested parties (Blair, R., 2001). Public promises, and voice of public at large should always be constantly monitored to respect. That is an essential command of democratic governance, and the public forum or conference can be utilized as a vehicle to mobilize the public consensus, wisdom and their readiness to follow.

Third, the policy tools need to conform, as best as possible, to the laws and regulations (May, P., 2010). As the area of child care or education is provisional other than regulative, the legal issues would generally be less serious. However, the terms or conditions, and unrefined arrangement without an adequate review of law may bring an injustice or wrong administration subject to public condemnation. The federal system also needs to be studied so as to be aided and procured even if the education issue generally falls within the state domain of competence. If the contract were to be established, we also review its nature to define its administration and consequences from the breach. Is it purely same as a private contract, or takes any status as a public contract? Can the dispute may be brought in the context of state action theory although it is private in nature? A relevant issue in the aspect of laws and regulation is important in evaluating the pros and cons of policy tools.

Fourth, the ideology of policy area also offers a point of concern in designing and administering the policy tools. The early childhood education program intrinsically involves the social issues of wealth redistribution and welfare promotion which requires a public

intervention. It can also be conceived in the serious aspect of public education, which is foundational and involves a longitude of effect on the society. If it works effectively, that feat would certainly promote a national interest. If the intervention goes into any maleficent context, it would undermine the public trust and incur an unnecessary loss of national treasure.

A multifaceted nature of challenge in the selection of policy tools, should be reconciled in some point of great eclecticism that appeals to the major stream of public sensibilities.

As I have said, the partnership seems most challenging to address the early childhood education. As seen in the article, the growing tendency across the states in US is to employ this scheme where early childhood care and education organizations began to work together in partnerships. In the partnership tools, the government and service providers share resources and services, whereas others accessed new public funding streams directly. As the economy saw much achievements through the centuries, our fate now mostly has gone onto a less rate of growth, but some high potential of sharing and maintaining. If other tools require more pains in drawing the funds or sources of governmental expenditure, the partnership arrangement is distinctive to excise a high spirit and public responsibility. It has the same currency on our traditional heritage on frugality, utilitarianism, altruism and communal congruity. For an effective implementation, the administrators need to be scrupulous to develop a co-optation as well as spirit of enthusiasm. The partnership agreement can take a little difference under any given circumstances or policy resources, as well as depends on other elements. Principally, the need would perhaps be serious to finely intermix multivariate interests, which may require the study of behavioral assumption on the actors and players (Schneider, A., & Ingram, H., 1990).

### **3-3.Insights: The Policy Makers and Policy Tools**

From a pristine form of approach, the policy makers need to move forward to shape specific policy goals and its implementation. The policy makers are themselves the tools or instrumentalities that the government or public institutions actually rely on in playing out their power or competence as well as responsibility. It should not be so if in nominal or under the official title, but they are actually the engineers of government or public institutions. Thus, we can see the legal treatment that the course of executing their public duty is considered an act of government if their act or omission of duty is culpable in damages or civil claims. They, in due context, often are defined to act in the color of governmental function, which means an importance in pursuing their job responsibility. Policy makers act usually in the line hierarchy on any bureaucratic ladder system, but that is not always the case if some commissions or independent body of council work in a consensus basis from equal rank of the experts. The policy network is practically useful resources that they are able to make a substantial and more convincing policy outcomes by interacting, consulting, and negotiating (Boin, A., & Christensen, T., 2008). They are strictly commanded by the laws and regulations, but also are emancipated into a forest of public wisdom, which is hardly prescribed beforehand by the law making authorities. This requires them to be innovative, business-minded in some cases, an effective assessor of policy tools, and deeply knowledgeable person about their neighbors as well as the nature of democratic values or quality and aspirations in their field (Schneider, A., & Ingram, H., 1990). They are, therefore, the group of hybrid intelligence, which requires both aspects of exposure to theory and practice. The policy makers and administrators can be charted in its gene over the history. They often are of supreme power, and possess the

ultimate source of morality or political integration generally. They are supreme, and need to address the societal needs. They may be viewed by some theorists that they predominantly interplay with the prevailing social class in their given times. They, if in feudal times, may be less active only to ensure their sovereignty and a limited scope of police role or social justice. The policy makers, in this contemporary time, however, are no longer such restrictive, but obliged to encourage and boost almost every sector of society. They are not only supreme, but also most powerful, and biggest enterprise which requires an expertise, quality of service, and strategic minds. Their role is now extensive on distribution, redistribution, system building or social change. In some context, however, the larger dimension of government or public institutions may bring the pattern of inefficiency or irrationalities what we call “satisfice and muddle through” (Boin, A., & Christensen, T., 2008). As consonant with the expansion of role and responsibility, the modern positive state or policy makers may face the policy tools approach more seriously than any other times. There is some delicate point in difference between the policy tools and management processes and techniques. The former is actually a limited number while we usually experience grants, subsidies, regulations, tax incentives, authority, public corporation. It works like a hammer and saw to enforce the policy goals while the management processes or techniques apply the selected tools to produce a desired outcome. There also are four dimensions to our note, which are essentials and points of beginning, interaction and recourse in the work frame. Those cover an administrative feasibility and political support, behavioral function, and perceptual expectation (Boin, A., & Christensen, T., 2008).





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## **Chapter IX. Democratic Governance and Foundation of Bureaucratic Ethics**

### **1. Foundation of Bureaucratic Ethics**

#### **1-1.Surroundings, Nature, and Experiences**

We were procreated in a stint of momentum, but revolutionary endowment about the ways we strived. It should be stupid to have an easy worship for some structural points of basic commandment. That is always amenable to intelligence, but in the least, the policy implementation or reform by the possibly creating class themselves. A large scope of surroundings have changed, and a tangible edifice of bureaucratic resources are currently present in Washington D.C, and other clusters of administration cities. That is never unique experience available in our nation, but should be popular over global jurisdictions. It should be plainly silly that the workers in that monumental zone stay not fervent about the role and responsibility.

Then we need to retrospect our nature of public engagement, and some thoughts of bureaucratic ethics enable to define our identity and destined commission for our duty and responsibility. I less like to recourse the tradition of monarchy, but begin with the proposition of social contract (Robertson, D.B., 2011). They surfaced with a shame of exploitation, and perceived it most courageous and conforming to social justice, as recognizing the sanctity of individual freedom. Life and liberty as well as his or her property are sacred, and the public power is obliged to respect them. Some perspectives take other assumption to avoid a shame that the nature of work and its utility are to be seriously visited to found a social justice. They see a work and the working class as sacred to be safeguarded. In this context, public power and central planning even determine what work merits and that critique or proselytizing context flourishes in practice. On the basic idea of democratic governance, hence, we are available of distinct duality in the current world politics. Though practically converging to some extent, the structural element or disposition of intelligence may continue to differ. In simple comparison, the consumerism may be less an attractive agenda for the liberal states. The supply side is any more critical point urged in rant to make up for some public ideals. If a central planning is underpinned to address the state agenda, it means that they concern the consumer side in public ways. They may get less sanguine even though some competitive enterprise pose a challenging appeal to public with any enhanced design or function Miller, (W. & Walling J., 2012). They may be cynical what utility it bears for our true nature of consumption. They may be left behind a competition; nonetheless, they may go their own way. This illustration simply shows some different attitudes if the perception or understanding of democratic governance differs.

#### **1-2.My Assessment on the Democratic Governance and Bureaucratic Ethics**

If we are distinctly under the constitutional democracy or rule of law ideals, we hardly can infer any kind of administrative supremacy conceptually whatsoever. In that context, we come with some points of deliberation between political or public administration and judicial preserve. As the public administration is active and general nature of state function, we often find some difficulties in deriving the standard of conduct in any definite ways. So we can call it more properly “bureaucratic ethics” other than order or realistic absoluteness. There is certain nature or highly commanding concept that shares commonly

among the policy makers or administrators. But it allows an extent of leeway which is creative in the guide of efficiency and effectiveness. We can identify several points of distinction and interrelationship between the two dimension.

First, public administrators expect to play upon the delegation of powers and public trust, which had been embedded in the social contract theory. The theory may not have full-fledge swing to explain the advent of US constitution, but had offered a profound impact in the constitutional democracy (Rohr, J. A., 1982). In the modern theory of liberal state, sovereign power or legitimacy of political power grounded on the people in general, which means excluding a feudal class, schism or prescient of particular social class as a legitimate ground for the state power. It also opposes any dictatorship from an idealistic thought of communism or the supremacy of working class. Therefore, both concepts generally lead the administrators to some ponds of final resort in thinking their right way to deal with. It is a supreme source in exercising the final authoritative reference. However, a tricky point underlies this way of recourse, which seriously posits who is an interpreter of constitution. Arguably gotten further about who is a final arbiter of constitution. This question has long lodged through the long constitutional history. Policy makers or administrators often have a limited ambit as denoted the executive branch. However, conceptually may it encompass a scope of public officers which include legislators, jurists and other class of social elites, which also is in much currency within the academic circle (Smith, K.B. & Frederickson, H.G., 2013). If we focus on the ethics, that aspect would come more seriously about the executive officers, legislators, and judges in order. Judge's role is less on making a specific policy or but more prominently expected to speak of the laws in intrinsically hard nature. The rule of "stare decisis" may go in favor of this viewpoint. We say that the common law system is based on judge-made law, which points to some of creative nature. That is less persuasive if we are pondered in some of modern administrative or regulatory nature of state role and responsibility. Now the domain of public law increased sharply to make the area of traditional judge-made law diminished significantly. The legislative power is initiative, creative, and leading as like the executive power, but their ways of dealing is not bureaucratic in nature. They act as a body of convention and collective context which leads to a voting method for their final resolution. In common, however, they act under the principle of democratic governance, and thus the question of who is an interpreter of constitution pertains to all of three players. We have three articles in the constitution which exclusively dealt with the power and competence (Robertson, D.B., 2011). So it is illogical and also impractical that the Executive or Congress is just law making authorities or assumes an executing power specifically empowered by acts or statutes. They all are independent thinkers and pursue to ground their business in some part of constitutional provision. This practice is seen apposite to the trusteeship command or understanding, and forms the basis to require a constitutional oath for major public offices. The challenges and high chance of trouble often arises from its less extent of clarity or exhaustion and high deference to each available possibilities of interpretation. Around this preserve, we may usually encounter a dilemma since the delicacies of separation of powers principle govern. Some of presidents in history, Lincoln and Jackson, can thus rightfully argue that the chief executive officer also can make a final say about the constitutional controversies if it falls within the class of executive domain. *Marbury v. Madison* is generally received as a basis of judicial supremacy, but still suffers from the ground of anti-majoritarian difficulties. Even in the contemporary context, the war power entails a delicate point of constitutional dynamism between the congress and president. In some viewpoint, several wars waged by the president may transgress the power of congress as a war making authority. For this ambiguity and also toward the political integrity

of nation, the judicial theory was developed in terms of political question doctrine or judicial restraint.

Hence, in the current rule, the constitution, as coupled with the concept of inviolable civic virtue, in guidance, offers a most fundamental source that the bureaucratic ethics should churn to delineate its standard of conduct (Rohr, J. A., 1982). The constitution and statutory act are certainly a bible for the public administrators, which can be plainly agreed in the words, such as “enabling clause” to denote Fourteenth amendment.” However, as reviewed below, that is one typical tradition that the classic constitution prefers to employ. As we read, the US constitution also shows a high tendency of negative dictate which is one of notable classic ones. The ways of enabling clause also are found in some of WTO laws, which can empower the public administrators, but also vindicates most of strict controls or restrictions in other sense. This illustration, fragmented though, is matched into the structure of basic command in safeguarding the originator’s intent about the fundamental shift from the previous regime.

Second, the rapid industrialization has led to pomp of capitalistic prosperity which startled to open our eyes and human greatness. It is a victory of civic powers which offers the environment of “limited government” or “negative command of constitutions.” That produced, however, a context of social injustice and inhumane consequences what we call a market failure or failure of private sector. Public intervention is inextricable to remedy an anomaly of capitalistic arrangement what we often call *laissez-faire* (Rosenbloom, D. H., Kravchuk, R. S., & Clerkin, R. M., 2009). Labor and capital markets turned to be more regulated in ways as possible to restore a justice. Minimum wage laws, Sherman Act and other anti-trust statutes were enacted to administer a proper justice. A most significant shift was made in the new deal era in the initiative of President Roosevelt. That was pursued to partly revamp an initial promise, but practically desired to ensure a prototype understanding of classic theorists. The classic theorists would never sustain their principle, metaphor or rhetoric if they lived late 19<sup>th</sup> or early 20<sup>th</sup>. This revamp certainly would modify the original version, but comes as a rescue to ensure their basic philosophy. In this aspect, we are able to cogitate on the nature of public policy which is circumstantial, but on deep understanding of history and civic virtue, and possesses elements of creativity, change-oriented, positivism, wisdom other than pre-oriented, and so. In this aspect, democratic governance offers some of off limit for the policy makers or administrators, but it certainly leaves an extensive dimension where the bureaucratic ethics can be germinated (Rohr, J. A., 2007). Beyond the legal province, an interdisciplinary nature of meditation is required, also being concerned to address their area of competence and responsibility. We would share the general of common ethics for bureaucrats, but the diplomats may have a distinct point of ethics. Many independent councils, which are responsible to adjudicate administrative controversies also may have some points of special ethics for their official duty. In importance, the mechanics or instrumentalities are actually engineered by public officers, which places the issue of ethics in more serious light. The concept of lifetime learning, and training or mentoring comes to pertain in cultivating the public officers. An aspect of professionalization into many new branches concerning the government function is one factor while the tendency that the role of government is seriously reshuffled to welcome the positive or administrative state paradigm is another factor. This tendency may not be received as any opprobrium of contemporary excessive government, but be domiciled in the context of interaction with the challenges and demands from the administrative environment (Smith, K.B. & Frederickson, H.G., 2013). The impulse and passion of modern bureaucrats, then, should not cease at the command of constitution, but should be dynamic as if they were to be a constitutional drafter.

This never says that the public officer may violate the constitution or statute, but can be an activist, for example, for the constitutional reform. In Korea, a suggestion system subsidized from the governmental employees has been practiced to improve many of inefficient dealings. Why should it be impossible about some of high measure about the gun control or second amendment of constitution?

### **1-3. Some Lessons and Concluding Insights**

This should never be interpreted in any revolutionary sense about the fascism or totalitarian form of government. But the French practices of constitution and presidency allow some lesson about the policy students (Rohr, J. A., 2007). As we know, France is a symbolic state about the contest of state legitimacy or sovereignty. Their regime had shifted over series of republics and imperial rules where their unique identity only may bear some points of sharing such as Gaul or Francier. The state was a sole point of common supremacy while the constitution, or other formal arrangement had been perturbed. Notwithstanding clause, as provided by British Act about Québec also emanates the context of policy supremacy beyond the formal instruments of constitution (Rohr, J. A., 2007). An author's illustration about the affirmative action also entails this sort of policy supremacy which cannot be attended from the normal understanding of constitutional command. Although A French thinker, Montesquieu, provides the idea of separation of powers, we often referred France as one of typical administrative state and high extent of the centralized concept of government.

We, American policy makers, are, in many context, an original state about the modern democratic governance which is unique from the European antecedent. In basics, we have not adopted a parliamentary form of government which is a fusion of governmental powers. We are expected to play under the more orthodox form of separation of powers principle. US has neither issue like Quebec in Canada nor the complicated context of history involving ethnicity or others. At point, however, social diversity factor is no less than any other nations.

My views about the policy or administration is that it possesses a nature of emulation, progress, and change (Miller, W. & Walling J., 2012). I, in the first sentence, used the word "stint," which I wish to point to the static and negative nature of liberal constitution. That is, however, fundamental to guide our practices and, hence, the ethics of bureaucrats. Policy dimension, nonetheless, entails more of progressive nature, which concerns an interplay of wisdom with the demand of environmental and societal change. In the concern of political ideology as depicted above, a political determinism may define off limit as we generally accolade a brand new car with fine looking design or new form of iPod. A history of nation, as in case of Canada, may see any differing avenue to address their policy goals. We also welcome the membership of China and more recently Russia while they still have some restrictive practices against a liberal market paradigm. This point also bears some point about the role of policy makers on the market. For example, the idea of Tobin's tax is never a product of purely law abiding officers, but pioneers new concept of public policy to redress the social harm. Some ways of constitutional understanding also allow differing views from the original intent of drafters. As we know, it would now be less sustainable if the president is a sole officer to execute administrative duty. It may be a final authority in ensuring the integrity of administrative power, but the departments also share the constitutional responsibility.

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## **Chapter X. Democratic Principles and Diversity**

### **1. Democratic Principles and Diversity**

#### **1-1. Life, Liberty and Equality, and Economic or Workplace Justice as Democratic Principle**

As a diversity comes into our inquiry, we would perhaps be startled to see around us. We really managed on the surroundings of diversity, but continued on some prejudice or bias despite its high of harmony (Miller, M. G., 1937). I suppose that diversity perhaps possesses a quality of ending inquisition from a malaise of society and attending moral arguments. A diversity issue is typical (i) if that involves an element of phenomenology incurable in deep basis (ii) if that concerns a human substance other than an objective logic on economics. The concern is more sensitively intertwined with the political science and more strongly focused in the purview of sociology (Deleon, L., & Deleon, P., 2002). The diversity issue has some extent of seriousness in that they could sway on the collective cruelty around Jewish in the Second World War, earlier stage of massacre in the Bolshevik or Chinese Communist Powers, or 2000's Yugoslavia, and other incidents in the feudal west and orient. In this level of diversity concern, it exhibits a kind of power struggle and determines generally the fate of group and its members or individuals in any sense. The context can, thus, be understood in the area of human psychology, say, some unconscious dimension, which tramples the others in diversity and shows an extreme hatred if realized. It does not stand generally less on rationale, rather often go more in some of passion and emotional aspect of humanity and society. They often hold a group removed entirely, or persecuted them in an extreme polarity while touching on its fate in any practical consequence. In some cases, they mask themselves in some of science, which, however, is absolute and plays in quasi- religious adherence as in the case of Communist ideology. In the second rank of diversity, we are available of the human rights galore to deal with social injustice. This level of problem commonly comes to question an equal opportunity and protection of law which is basic to shape the fair society. The diversity issue in this rank often concerns the discrimination of public power which often are received as basic and flattened in modern sense. So they usually incur the constitutional or civil right act issues which are hard and a matter of national or state framework, but are deeply founded and influential to penetrate the diversity (Robertson, D.B., 2011). The issue usually involved societal livings, segregation or desegregation in education, and, in some cases, the proponents of affirmative action echo for social justice to cure the past wrongs. Although they deal with the diversity, it has a limit given that it was to be principled in the governmental context. The state action theory has evolved to impose moral elements of constitution in the state-like big powers, but does less prevail in a fair class of judicial scrutiny. The third rank of diversity takes the form of soft nature which is positive, progressive, scientific and entails four squares of possible application (Deleon, L., & Deleon, P., 2002). Their lens of concern and investigative tools are flexible and scientific other than

any hard, static or prescribed nature. They often see some desirables beyond the negative command for basic rights. They are less defensive nor passive, yet being progressive, and propose some scientific findings to change the organization or public arrangement. Their theory and tenet have the potential to be applicable for both of the governmental and private dimension. Hence, their logic and metaphor are suggestive and proposing to change, and their perspective is promising to reform. For some of them, diversity in the workplace is necessary on the health reason besides a traditional understanding of economic, ethical and citizenship arguments (Foley, J. R., & Polanyi, M., 2006). In some views, a representative bureaucracy is argued beyond the dominant version of democratic representation (Selden, S. C., & Selden, F., 2001). They are proactive, and they often say it is better, not saying it should not be. They inform the law, and also share some community grounded on the theory and practices, convention, and intelligent compartment left untouched, for reasons, by the judicial business. They are engineers to fill the scope of silence that the fundamentalists would be bereft of any further means. They can bridge both the private and public dimension in the concept of organization and public policy. Hence, a fantasy of public organization needs to be revisited seriously in the theory of “unthought known” in the case concerning the University of Colorado (Levine, D. P. (2003). In its argument, the real dynamism of diversity program loses its sight of substantial interplay between the group and individuals (Levine, D. P. (2003). A deep awareness of the attributes within the group as well as a serious reflection about the nature of minority group is required for any peaceable campus. A fantasy of organization usually found in the school or university policy is one to attract a precaution if lacking such character (Levine, D. P. (2003). Diversity may, in some cases, be inapposite with the autonomous logic of modern free market, and thus can be more human-oriented other than purely materialistic ways (Gunn, C., 2000).

## **1-2. The Provision State and Promotion of Diversity by Public Administrators**

It is now considered as one of democratic principles arising from the concept of “provision state.” That has been presented in a meeker context in US if the public welfare and general happiness of citizen was pronounced in the preamble other than the main text. In practice, however, US is one of big government now pursuing many social programs by means of the budgets and resources. A new generation of constitutional states often have an ambit of provision state in their main Articles as like Germany, Korea and so. There is a similar tendency in the state constitutions of various states as gone in some differing ways with the federal one. Elements considered in the diversity concern are not the same across the nations. They often cover a race, ethnicity, age, gender, alienage, disabled, and others in which the court may apply the theory of suspect classification and strict scrutiny. The racial or ethnic discrimination in Korea is not generally posed for its demographic attributes and history. However, alienage is a newly emerging concern which evoked the needs of public measure in response to the rapid increase of foreign workers. They are a source of profitable production element for the capitalists of Korea since they are a provider of cheap labor. However, they are one contributor to the increased crime rate in Korea, and thus a group of public attention so as to be measured in naturalization and social congruence. Korean government now sees its priority in public policy, and promotes a social program of multiculturalism by creating the favorable and affordable circumstances for foreign workers.

A diversity issue may in some dimension comes in the contrary dynamism involving goals of public welfare. A typical illustration may be available of affirmative action where



the public welfare and classic notion of equal opportunity competes to interplay (Selden, S. C., & Selden, F., 2001). Both virtues are enshrined in the constitutional understanding, but the consequence generates a serious public concern and sensibility of what is justice in our society. In some cases, “redistribution of wealth and opportunity” suffice a precondition of the affirmative action in countries which are seen more advanced or on scientific persuasion. That is a matter of extent, however, and seems submissive to the political consensus in any ways possible, general election or other means to ensure the democratic legitimacy whatsoever. In other case more adhering with the classic notion of “level playing field,” that redistribution initiative may come rather diminished that major sensibility of people may see it weightier such distribution given in nature and as publicly innocent. They may raise a rationale for their affirmative action policy on historical ground, such as “past wrongs” and its remedial character (Selden, S. C., & Selden, F., 2001). The diversity and policy makers or administrators are placed in an interactive plane, and may offer a pond of contest for the advancement of society under the framework of majority rule. It gives a point of sophistication for the court standing on the “case or controversy,” and also underpins an inciting clue to shape a greater policy to address the social needs. A dormant administrator or policy maker may never enter the kind of dimension whereas the change oriented leadership only can see the nature of problem and pursues a progress. A pay inequality on the ground of gender or age may be left unresolved since conservative judges remain on the passive attitude (Video Program: Laureate Education, Inc., 2009). They may be remedied by enactment of the statutes, but not exactly be disgruntled by the judges so ordering. An injustice from the diversity ground, therefore, entails an aspect of logic, rationale, and persuasion of power, and also produces varying consequences from the pattern of institutional elements. Then both of judiciary and administrative branch may share the same progress and basic virtue which should be defended as a matter of structure. The judiciary is passive in its nature of power, and is limited in the context of case or controversy requirement. The administrative branch and also the Congress deal with the “public agenda of general nature.” The separation of powers principle, therefore, operates to allow a distinct preserve of public commission and work frames. The principle actually is considered to have the strengths and weaknesses, but is essential to ensure the individual freedom and hence of diversity. A possible stalemate among each branch of government may come as foible in some context, but they can share the constitutional goals in same passion. For the judiciary, they more favor the word of equal protection, and might look it more fair and on justice the liberty and equal opportunity. The executive officers may more sensibly ideate the context of substantive justice which guarantees a classic objective as distorted in the contemporary context. In many cases, an equal opportunity came perfunctory without a reasonable public measure of remedial nature. For example, Korean government supported the settlement and naturalization of northern refugees by granting a lump sum money on the statutory ground. They are the people politically persecuted and fled for freedom into South Korea. They have no means and basic assets to boost their subsidization. Is it acceptable to leave them as are, but just to allow them as legal subjects of Korean constitution, and hence to have the right to equal opportunity? In that case, Koreans did not raise an equal protection or affirmative action issue who could possibly have been an extremely poverty group. Of course, the judiciary does not see any chance to review that case in any way, and may grin for its public utility. I like to call this reality as “galore of institutional gap” which can be exploited vastly by executive officers.

### **1-3. Concluding Insights**

Tracing back to the initial triumvirates covering three levels of diversity, I like to relate a brief insight with the democratic principle. The first of extreme case may be purged entirely in the general context of principles for the international peace or defensive constitutionalism against any radical ideology. For example, the Korean constitution opposes a foreign aggression or unjust wars as a constitutional matter. We do not afford a governmental subsidy for communist parties, and they should be dissolved on the initiative of presidential action and eventually on the findings of Korean constitutional court. Diversity is ensured, in this dimension, by the command of ground law in Korea. This approach is usually found in the progenies of Bonn constitution. However, the US case falls in silence which is because of its classic version and also entails a dilemma posited in the second amendment (Robertson, D.B., 2011). However, specific dealings come from the congressional initiative such as the Sedition Act or other anti-communist statutes. The second and third ranks of diversity can be trailed through an intense interaction and academic debate which need to be finally resolved in the “galore of institutional gap.” As I suggested, the interaction operates in the typical structure of constitution, and hence comes in touch with the democratic governance. It arouse a difficult concern of policy students, but my view may be a tipping point between the public welfare and liberty as well as equal opportunity. The words, “general welfare” eminently pronounced in the preamble of US constitution, as well as the pursuit of happiness may work as a guiding lamp for the executive officers in addressing the challenge of diversity. That should be pursued in the government or public workplace and may be applied to the workplace in whole of diverse character, which may, however, be of varied forms and divergences in practice and under the circumstances.

## **2. Effectiveness of Workplace Democracy**

### **2-1.The Nature of Workplace**

As a public policy student, we need to think about the workplace democracy. The contemporary workplace is a battleground, site of production, and sources of higher pleasure, and strand of personal or job satisfaction, and a little space of society, where the dynamism of organization occurs. It is a battleground if the market logic prevails and competitiveness requires the members to be strained and compete. It is a site of production where the currents of civilization are grounded on. The organization enables to produce a utility in the concept of JS Mills, and a unique place for the individual to generate a higher pleasure. That is particularly meaningful if the organization takes the public or governmental nature. Modern industrial researchers also emphasized the motivation of followers and worker's job satisfaction, which in turn allows a point of feedback to enhance the effectiveness and efficiency of organizational performance (Deleon, L., & Deleon, P., 2002). For the sociologists or human geographers, the workplace is a space where the members or workers are playing in some of social relationships.

### **2-2.The Workplace Democracy and Arguments on Its Effectiveness**

The workplace democracy comes in various levels of theoretical framework. Most radically, the workplace democracy may require a worker's share in the capital and active participation in management and business decision making. Since the corporate governance in US basically relies on the concept of shareholders and corporate counsel, the worker's share in management decision is radical and unusual (Miller, M. G. 1937). Two sheer illustrations are available in Spanish case, Mondragon cooperatives, and in Germany (Zirakzadeh, C. E. (1990). A German mode of production management also partially realized the primacy of working class, which is however incompatible with the socialist paradigm of central economy. The term, workplace democracy, may get relegated in second ladder, in its extent of extremes, where the participatory leadership was proposed by modern US industrialists. That notion is in a contrary posture with the line authority or position power in some context, but may complement each other to alleviate the dilemma or gap between the leaders and followers. A follower's readiness and motivation may be ensured at higher extent by practicing a participatory leadership. Taylor's or Fordian conceptualization of work efficiency and Hawthorne factory experiment may pioneer the early of industrial work in US (Deleon, L., & Deleon, P., 2002). The workplace democracy or participatory leadership may follow to correct the views of superintendent control which was efficiency-driven, but inhumane. The workplace democracy sometimes refers to the context of multiculturalism or all-inclusive policies which incorporates a diversity concern in the organization (Selden, S. C., & Selden, F., 2001). Proponents usually investigate a scope of factors involving race, ethnicity, gender, disabled, and differing generations to see its practical consequence and organizational effect. Their views are, in major, tend to be moderated to accommodate the congruity, efficiency, fairness and democratic prongs of reality, and social justice in the workplace (Deleon, L., & Deleon, P., 2002). They, in some cases, criticize a workplace discrimination against the promotion of female workers to higher ranks. They, in other cases,

stress an effective communication to breed the strengths of specific group and to uniformly serve the goals of organization.

The workplace democracy, in general, brings our attention in three ways of focus (Foley, J. R., & Polanyi, M., 2006). First, the economic argument goes plainly dominant to explore the effect of workplace democracy on economic productivity. Their central concern is whether the decentralized mode of work management or business decision making may yield to a better productivity. This argument is very powerful if the organization normally pursues some organizational goals and their accomplishment is usually measured in productivity. Second, the workplace democracy may be argued in the purview of citizenship where the workers are a group of citizens amenable to public life and are expected of more desired level of social interaction. The workplace is not only a production site nor merely working space to perform the organizational goals. It is the place of experiment or education and training where the workers may improve and be cultivated as a paragon of democratic citizen. Given the usual fattening of economic issue in the workplace, this perspective is fairly persuasive to ensure a streamline of democratic society and uniform concept to serve the society. A strategic aspect of organizational performance and points of competitiveness may usually not be harmed given its prime feature of citizenship. Therefore, this viewpoint is persuasive, and particularly comes as desideratum if the organization is public or governmental. Most notably, the school, a public organization, is expected to foster this ideals. Other rationale to advocate the workplace democracy brings a focus on the ethical argument that democracy is plainly a virtue and ethically required to ensure. As the workplace has the attributes and quality that an individual can realize their self and perfection, democracy is necessary as similar as in the case of the mini- republic of governance. They express their ideas freely, and interact as possible as equally on the premise that the genuine nature of particular organization preserves intact (Rich, W. C., 1998). They often consider a diversity within the organization and may reinforce their ethical virtue to be inclusive and culturally equal as well as respected.

### **2-3. Major Corporations in France**

In France, the public law obligates a compulsory quota of corporate counsel member in some ranks of private organization which must be staffed with female persons. That would perhaps be common about the organizing context of state ministers. This case is very typical and an equivalent of avant-garde, which is pioneering and experimental. It is high of social measure and idealistic to draw a sharp advancement between the stalemate stuck by the progressives and conservatives. The extent of democracy is radical, and can be considered a modality for public fairness about the gender difference.

I found it highly controversial which possesses the strengths and weaknesses in terms of workplace effectiveness in several points of analysis (Foley, J. R., & Polanyi, M., 2006).

First, an economic argument may see it detracting if they highlight a social feature other than the quality or competence of female counsel. If France is a state of social virtue and their industry has some distinct attributes of culture and humanity, the effectiveness needs to be viewed on a case by case basis (Gunn, C., 2000).

Second, an ethical argument generally favors the gender equality in social profile of major corporate counsel. However, the merit based argument may well tarnish a legitimacy of compulsory quota.

Third, a citizenship argument for workplace democracy bears a general comport with the system since it constitutes basic ideals long upheld by the democratic nations. They can be trained and share the sense of equality among different sexes, and male dominance or patriarchal tradition may improve to ensure a diversity and social harmony.

Fourth, it is an extent of radical measure but never in the context of working class prerogative, but its social errand goes with humanistic and social elements other than economic or political ideology. The participatory leadership may come neutral if it concerns a specific context of each organization. But there is some tendency if the female leader is more open-minded and socially sensible to share the followership (Levine, D. P., 2003).

Fifth, major corporations seem to function like a government in its influence and power which is bureaucratic and assumes a big role. Then it may share some of common dynamism experienced in the US government. An effectiveness may be assessed in similar ways. A dual process of assimilation and acculturation may get present to enhance the organizational performance.

## **2-4. Some Thoughts on Sustainability**

In dealing with the workplace democracy, the representative bureaucracy may attract much if the nation is fairly of mixed nature from the majority and minority groups. This concept may be compatible with the French case that I like to make a point in its strengths on sustainability. Particularly it bears similarities that the state cabinet in France went half in half between the male and female ministers. Their argument merits our engagement since the government in this contemporary times is one of biggest employers and offers a scale of workplace for some qualified workforce. The concept of representative bureaucracy directs a fair representation in the concept of proportional justice. Therefore, Hispanic, African, and Asian, Native Americans along with the white majority may be fairly represented in some of compulsory quota. Therefore, it may be required of various means to realize it which should not contradict a constitutional command. An affirmative action to subsidize a minority workforce, on other than competitive ground, may not bear a compelling reason to make it permissible in some states. This paradigm, however, serves points of policy objective in terms of redistribution, fair voice in the bureaucracy, and efficient administration to readily respond to the needs of their group constituent. A typical modeling, on this stream, may be found in the native American employees to serve the needs of Indian tribe. I expect many positive effect about the French reform as in the case of American ways of approach.

## **3. .A Relationship between the Organization Change and Organization Culture**

Organization culture is generally perceived in a dominant pattern of attitudes, disposition, and personal clinging, perceptions and other human persistence which is far from readily being changed or corrected. It, therefore, underlies more basically the atmosphere of

organization on the automation, power, and affinity and passion to sustain the practices of organization as in the way of the past. Organization culture is of a considerable factor that the organizational theorists and leaders need to undertake in their understanding, engineering, defining, and leading of the organization. That is particularly worth emphasizing if the leader embraces, plans, and implements a change on the organization (Mott, L., 2008). In order to look into organizational dynamics from the leaders and followers, we can perhaps derive some essences from the organization culture.

### **3-1. Touch and Concern on Humans.**

If we said of the organization culture, our touch and concern are gone with the element of humans, who are members of the organization (Tager, M., 2004). Although they are more salient with the followers' aspect, the leader himself also may be a person never entirely free from the dominant culture of organization. Unless the leader were to be outsourced on any public recruitment process, this would be truer with the lengthier and more involved leaders for the organization. Even for the outsourced leaders, it is generally essential to fastly adapt himself with the organizational culture, which, in many cases, would be an anchored issue which he has to struggle with. Organizational culture, in any case, is not objective on the mechanics of organization, which transcends the traditional way of managing or leading, such as job description-based allocation of manpower, boundary setting, work division or formal line of hierarchy.

### **3-2. More Related with the Stable Condition**

Organizational culture would be more familiar with the organizations on a stable condition (Hickman, G.R., 2010), which implies that the culture generally develops the members to be regressed, calculative, defensive, solidarity-pursuing, adherent on its history and past success. This attitude, in a definition, would get expressed on basis of the collective and dominant context of organization. Therefore, the culture of organization is usually referred to about most of so –far-so-good enterprises or firms. For example, we may safely state if the college is very conservative in academics and its way of dealings, which has continued on 150 years history and also stayed steadily with good students and outstanding faculty. What we talk about in this case would go remote from usual an inclination about the financial issue when any college ceases to operate. As in the goal and path theory, the leader may redress any of evils more easily by way of penalty or incentive if the culture is individual in its nature. That is less on the case if the culture is collective about the large scale of members.

### **3-3. Biological, but Typical and Governing**

Organization culture could not be properly approached if we are reluctant to wage the way and account of biological science to the organization analysis. The element of culture likely factors to explain the process and dynamics of organization. It came into play in the course of input, throughput and output of the organizations, and it also operates to affect the course of leadership about the transactional and transformational context. It is generally typical and takes a governing aspect for the change agent in deliberation of his or her plan for the organization change (Hickman, G.R., 2010).

### 3-4. Diversity and Learning

Organization culture may in many cases be generally uniform as we see in the typical cases of success. For example, we can easily identify some of uniform attitudes or passion with the workers of Hyundai. They feel a strong affinity with the organization, and their passion can be through most of issues of organization given the indicators are sound. For this, the change leader may also like to see his path with the strategy of sustainability, and tends to identify things within the conservative framework. The culture, even in this case, matters, if to sustain the morale as well as the recycling of that soundness on a steady ground. The training and education program from many organizations triggers this effect of sustainability. The culture of organization would become a more prominent factor if we deeply look into the individual dimension of followers. Diversity comes into this plane if the organization is working from the multiple nature of workforce (Hickmann, G.R., 2010). For example, the leadership and organization change should be different if a major portion of workforce comes from the female group. A diversity element would be deepened if the organization operates within the international context. The leader, in this case, needs to consider not only the particularities of international manpower but also has to see the culture of environment. It includes the passion of people in the host country, local laws and regulations, and endogenic nature of the national market. In this context, the leaders and members of organization are orbited of the priority in learning.

In understanding a relationship between the organization change and its culture, Shein's enlightening summary enables us to know the current status of "us and organization" in the way of bridging them (Hickmann, G.R., 2010). The learning organization and learning culture are a central typicality in the contemporary discourse of organization. That comes from three dimensions, I suppose. First and most notably, organizations are now facing a distinctive environment from the former age. It is fastly changing, which is due to the technological innovation, and shifting economic pattern, and globalization. That also tends to reshape the paradigm of humanity and culture. To say, we are now living in internet prevalence, which was not possible in 1990's. I-pod was also recently made available for the public. Interviews and conferences are now usual on the internet screen. An economic pattern would trigger the post-modern trend in the society, in which the tailored or artful mode of cars appeal. The human concept has risen gradually other than the placid mode of mass production. The government requires upgrading a quality of product by imposing an environmental regulation. A human value has enhanced and the workers are normally highly educated. Globalization is dominant to more frequently encounter the foreigners in our residential area. The impact of this squarely powerful influence accounts for the situation, which "us and organization" face. It inevitably drove us to learn.

The learning organization comports with the intelligent existence of human nature, in the basic and at the least. Without a bit of learning, the members of organization have to stay like a doll in the sectioned space or his well-furnished large office. The leaders and followers would learn to manage on the continuum even if the organization thrives and the culture or morale is high. They would perhaps not to opt for the change, but the leaders like to confirm this through learning the organization (Hickmann, G.R., 2010). If the organization performs at medium level and members are grappled with a strong culture from the past, the leader may like to confirm their inertia about his or her change effort through the feedback or may

recognize a futility of the training program. So the element of learning underlies the bottom-line of human community and organizations would be no exception. Then, the learning organization would come forward rather within a more strong context, in that the contemporary organization plays a role in the life-long concept of education. Now the organization may substitute partially the role of higher education in the field within which the organization is committed. For example, the training institute of various types are working in this general direction. For the learning context, we also illustrate diversified programs of the business school, such as Executive education or coaching and capacity building course, and so.

### **3-5. Organization Change and Organization Culture**

Organization change is essentially intertwined with the aspect of culture in which most change leaders focus their effort on the change of human paradigm. A minded leader would be aware that it governs the organizational capacity and productivity (Eddy, P.L., 2004). Sharing the vision as well as motivating and encouraging the readiness of followers for the change are all concerned about the cultural disposition of individuals and groups. Organization change can generally be phased onto four stages, which include “prelaunch, launch, postlaunch, and sustaining the change (Burke, W.W., 2011).” A prelaunch stage requires that the leader examines a self before taking on the platform for the change initiative and effectuation. He or she also needs to learn and understand the external environment. Then, his next step pulls into his plan by establishing the need for change and by providing the clarity of vision and direction (Burke, W.W., 2011). For example, we would soon find it plausible that the leader’s awareness of attitude and characteristics about his person is critical about the success of change plan. That is the starting point to communicate with the followers. That intrinsically involves a stern analysis of his or her cultural aspect stemming from the education, career, and personal style. Other elements of prelaunch stage are needless of further clarification as we briefed above. We also turn on the ample aspect of culture relating with other stages, which are considered to factor the organization change. For example, dealing with resistance would come at core with the cultural disposition of individuals and groups. A perseverance is required that the leader has to stay in the course, which would be less strong if his personhood is inexperienced or easily submissive.

In the discourse of organization change, it is helpful to receive the recent trend of psychological study. Psychologists now turn to shift their theme for the positive aspect of humans, who were previously massive on the negatives. This shift is based on several practical forces (Burke, W.W., 2011). This shift would allow the organizational theorists to borrow and apply their ideas in the context of organization change. Lastly, I like to mention the loosely coupled system (Burke, W.W., 2011). That is because it is the most popular agenda in Korea, which the change leader long since has sung in the course of his leadership performance. There are two sides about the good and bad aspect of such system. Generally, it is considered to bring an inefficiency of organization. On the other hand, the change to remedy it would principally touch on the objective mechanics of organization. As we learnt, however, it would bring less or no fruits for the desired change goal without a cultural improvement of members.



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## **Chapter VI. Critiques of Democracy : Validity, But Rebuttable?**

### **1. Critiques of Democracy : Validity, But Rebuttable?**

#### **1-1. Introduction**

If we are led to assess the democracy, the first impression of lay persons would perhaps be intoxicated with no idea, but just muddle around of its being just granted. What does it have any exact nature (Gilley, B., 2009)? They are but also to be stuck with less sensibility of its ways being interacted with himself. Perhaps their apprehension on touch would be mass of political ads during the public election, and their response to report to a ballot place for voting. Routine experiences and their interests rather tilt highly on their hobbies, personal events, and small society they engage to spend their lives in a better human condition and pleasure. They pursue a happiness, but in the course of their subsistence, democracy would much sound indirect and also in empty appeal which neither affects their lives in any authentic ways (Miller, J., 2002). For the critique of democracy, however, I suppose their central question is how the current debate on democracy should be comprehended in its nature and with human or social circumstances. First we need to confess that many current benefits are of dormant and taken-for-granted bias. However, there is it still standing in conceptual ambiguities and less idealistic certainties, which would be amenable to each student's purview in their purpose.

#### **1-2. Critique I: A Conceptual Confusion of Democracy**

##### **1-2-1. A Description of Critique**

Kendall's succinct exposure to the confusion of democracy as a conceptual matter allows us to form a basic nature of current controversy (Kendall, W., 1951). Upon the evolution of democratic history, the contest raised from debaters, scholars, and concerned citizen can be less comprehensible in any uniform or cohesive concept, rather includes basic points of agreement and disagreement. Is it a constructive concept to build upon every ways of lives on persons and their community as John Dewey expounded? His import of democracy is most eminent and comprehensive to level with the kind of educational ideas, which is omnipotent in the sphere of individual domain (Kendall, W., 1951). However, democracy would perhaps be most patronized by politicians and political scientists whose concern generally is centered on governance and the ideals of political community. So they argue principally on the mode of ruling or forms of government. Their contention in the course of upholding a democracy is to place the political power on solo or small group of society. They saw the government of democracy exactly the opposite in which majority rule should dominate. Some disagreements arose in other views that the majority rule should be practiced but except for some sensitive areas involving a crucial liberty interests and inalienable human rights (Kendall, W., 1951). Other separate dealings on democracy have been underlain on the content of government beyond the forms of government. What ideals they pursue in the course of state engineering significantly dismantles into a different notion of democracy? For example, Soviet Russia defined them as a people's democracy which may

be reduced in merely “for the people government” other than “that of by the people.” For Lincoln’s laconic words on “government of the people, by the people, for the people,” it just bears a limited reach waiving the second element which points to the government for people. In this dichotomy, the version of social and economic justice comes rather in differing stance, but both of communist and liberal nations tend to presuppose that the state and government can do no wrong as within the Hegelian idealism.

### **1-2-2. Its Conceptual Validity, but Practical Contention**

I am therefore driven to agree on the confusion of democracy for two reasons basically. If we receive the term in a plain viewpoint as the majority rule, we can hardly excise any practical lessons nor strands of applicability to discourse, institution and action. An enlargement of concept and understanding is a matter of natural things that allows us more substantiated or practical version of democracy over the dimension, basically the academics and practitioners. Second, history commands a development of new intelligence to address the complicated context of contemporary society. Democracy is certainly historical and a product of idiosyncrasy in perspectives (Gilley, B., 2009). We detest the counter thesis since they betrayed the human nature and since democracy is considered as a just reflection of social and economic class in the society. They came in the fair context of historic momentum, but in tenet may be commonly versed with some structural needs of social reformation. The Bills of Right in 17’s Britain involves the controversy of James II, who struggled for power between the Catholics, Protestants, and parliament. The trial of seven bishops and the circumstance involved in the bill of rights show its nature of idiosyncrasy, but the religious, economic, and political wake of history evinces its inextricability not to mention a simpler understanding of Marxian theory. The American revolution may be called as war of independence in the cause of Boston tea party, but also holds out a social restructuring from the feudal mode of governance. French revolution also follows this wake to reflect a legitimate social contention for the democratic government. This classic theatre of democracy offers a backdrop for the contemporary society and democratic states which require a square point of adjusted dealings revolving around democracy. The diversity and its nature of autonomous concept concerning democracy, hence, becomes veritable and convincing in general (Kendall, W., 1951). Thus, we need to be cautious in reception and use of the term in any specific context.

### **1-2-3. A Fundamental Confrontation in Some Destructive Strand**

For the purpose of criticism, I advance to look into a respective discourse of basic agreements on democracy. Notwithstanding the basic relativism in the current discourse of democracy, we have a paradox of fundamental impediment practically intercoured through the ways of government. Many of liberal states now employ a concept of “defensive democracy” in the constitutional or statutory measure. There are areas of fundamental dissention not to be reconciled in an institutional resilience if other than force or war. Plainly a communist party has no constitutional ground in Korea that has a fate to dissolve in ordained ways of constitution. Of course, that is a dimension of national institution, but is generally safeguarded in the areas of intelligence, and on limitations prescribed by the government (Jenco, L., 2003). The freedom of expression, for example, protects a pure

academic discourse, and if posited in the context of no “clear and present danger.” Richard Bernstein’s example in US may illustrate a vague nature of his tenure controversy in the Yale department of political science. He actually is a competent Marxian theorists now leading the journal of Praxis, a most respected journal of communist teachings. Now democratic Korea has recovered from some serious oppression of academic freedom about the communist ideas. It has been achieved in decades of imbecility practiced on bias and prejudice if measured in the parameter of western understanding of free expression.

A conceptual relativism may lack significantly its valid ground if it foregoes the struggling nature against an absolute power. As said, modern concept of democracy generally can be viewed to underlie the *raison d’état*. It is hypothetical, but theoretically assumed to legitimate governance, often predicated by the word “democratic (Gilley, B., 2009).” Beyond any element proposed by many democratic thinkers, we would perhaps not be persuaded if we dispense away the struggling dynamism (Laureate Education, Inc., 2009). That might arise from a protestant ethics, evangelical adherence with the ideals of equality, or group of civil intelligence expressed in the activities of NGOs. An *d’état* might be Kings or monarchs in feudal state, or republics of the people, for the people, and by the people. It might have the nature of “proselytizing government” to indoctrinate their ideals and quasi-religiously cultivates the subjects. Some viewpoint concerned an importance of partisan institution for better wisdom (Laureate Education, Inc., 2009). Now a citizenship discussion offers the point of popular forum in the democratic society for proposing emerging context of democracy. It particularly merits an emphasis on the democracy of communist states and that of globalization. A quality and scope of citizenship is required and constitutes a point of stress in interacting with their subjects, and hence “denizenship” expects a communist morals, minds, personal disposition, and ways of action (Jenco, L., 2003). There is no prescribed scope of global citizenship, but the ambit reaches that scale on the inchoate form of public discourse concerning the world congress or global citizenship. It sometimes debates on the proportional justice in democratic representation. Despite its practical reality in any future, this tendency has some point of precaution since its nature often goes on the unitary frame or leaves less of relativism. This idealism, in some context, may undermine the realist understanding of politics, hence the diversity of concepts on democracy comes rather in diminished ways and in strong generalization. For example, history, in the British real politics, guides the right recognition of political power and institution, but how much history engenders a discourse of world congress is truly questionable.

## **1-2-4. Insights: Some Point Missing**

While Kendall has not given a definite mention about this point, the extent of reliance on Hegelian concept could give a tip of understanding about two major contentions (Kendall, W., 1951). Now the political scientists have a point of sharing about the demise of ideological confrontation, it still has some elements if we enter the intellectual or conceptual issues. The communist states and their democracy can more correctly be highlighted in that they hypothesize “*raison d’état*” more than their counterpart. The British tradition has shaped their tort scheme on the assumption that King can do no wrong. Hence, the common law has long held that a tort victim may not have a legal remedy at tort against the state and their officers apparently acting in the “color of state.” Of course, a purely personal nature of act or omission committed by governmental employees would not fall within this scope of state immunity, so that are not dealt in that ways. It comes as late as 1970’s that US and UK

enacted the state immunity act to address this kind of legal questions. Koreans also have the kind of statute to define the scope of tort remedies available against alleged wrongs of the government. A culpability of civil damages was heightened to favor the state which performs a sacred public mission and should be idealistic in its perfection of reason. Eminent domain has also long been espoused by liberal nations that the state can legitimately defeat the lands to the state purpose. Their cause to take the land titles and to dedicate it for public use is legitimate and falls within its plenary power. The state is an equivalent of feudal monarch who is sovereign and has a prerogative to stand at the top of feudal ladder in estates. The estates theoretically recourse back to King who is an ultimate landowner in his dominion. So the Hegelian idealism on the state and the nature of sovereign offers a contemporary understanding of democracy now practiced in both camps of different ideology. To say, their concept of democracy converges to that of *raison d'état* in its basics, but the content and extent actually differ. If both governments go lousy to stress their faith on people, hence democracy, do they share most of commonalities (Gilley, B., 2009)? Often we can have a requisitions that the liberal nation largely defer their wisdom to the people. Their commission and engagement are less imposing, and hence the roles of capital class are seriously important. Their mental reach is not so extended to even control the production and consumption. If we have any barometer on Lincoln's riposte, the communist states would be gone at the extreme on "for the people" indicator and least on "by the people" indicator. That would perhaps be contrary for the liberal states. In the brief thus far, I reviewed waves of thinking, which primarily rest upon the fundamental Maginot line or some of theoretical purity against a confusion and disagreement. Therefore, the concept and practice may differ as concerned with our daily impress and report. But the essentials found in dissecting democracy bears an aspect of struggle or protestant attitudes and evolution-friendly. They are conceptually standing in diverse purpose, but may be administered invalid or destructive in some cases (Gilley, B., 2009).

## **1-2. Critique II : A Plutocracy Argument and Plato's Perspective**

### **1-2-1. A Description, and Their Validity**

A plutocracy argument about the creation of new republic in America can be considered as one of strong and practical understandings. Their views are valid and bear a scope of persuasion that the founding fathers and other concerned politicians at that time actually detest the fear of demos, i.e., in a current term, more properly denoted as mob (Beard, C. A., 1993). The context of their struggle toward a new republic in US is circumscribed by turbulences on the colonial states and their mother land. They were actually put into a fair extent of options about the mode of governance. They feared if the General Estate in France were disintegrated into the hierarchical control imposed by the National Convention (Beard, C. A., 1993). Their cause and vision suffered from schism, faction, and commercial or agrarian interest. The traders and commercial persons were new economic class to have the ground of justice to claim their prerogative or crucial interest. Southern agrarians maintained their interests based on the legislature of state (Beard, C. A., 1993). This claim of plutocracy about an actual force behind the constitution of United States is fairly persuasive. It also comports with the structure of class contention progressed in the foreland of France. Three classes competed, who are traders or commercial people, land owners, and well-versed

intellectuals. Three classes in France also bear the similarities as shared by the bourgeois, landlords and priests or bishops. Differences are just found between the common law lawyers and religious group. In the new continent, law perhaps would replace the religious power who operationalized a negotiation to create any fine institution of governance. Hence, we share a common exposure through the divinity of Catholic, that of King or monarch and divinity of law. In any case, these groups were not definitely disposed to admire a democracy. Points of institutional arrangement in the US constitution evidences their fear of majority dictatorship. Bicameralism, independent judiciary, and weighted requirements of constitutional revision may come in this light (Beard, C. A., 1993). If we factor the circumstances, history, human elements and intelligence as well as material condition, a plutocracy argument and critique of democracy seems valid that allow us the ground of constitutional democracy and genes of constitutional drafters.

Other critique about an easy receipt on democracy can be traced back to the Platonic republic. Plato's concept on social justice and idealistic polis they envisaged never favored a democracy which could devastate their perfect city (Santas, G., 2007). Plato and Socrates began to construct their understanding in reliance on the logic and metaphysics. Their argument and discussion saw the "function of each citizen" as the foremost of essences for their idealistic society (Santas, G., 2007). Their concern is extensive on distributive justice, occupation, public education and so. They derived three elements pivotal for the function of citizen, i.e., wealth, knowledge, and freedom. They were positive to deal with the distributive justice that they perceived it a justice if we should not treat everyone equal, but treat differently along with the equal and unequal of reality (Santas, G., 2007). As John Rawls taught, distributive justice, in the first principle, would possess prongs that guides each individual in just way. Their points of argument come in the persuasive ways to criticize a democracy given its main understanding of majority rule (Jenco, L., 2003). First, they recourse a fundament of virtue in the perfect function of each citizen. This may be received in conformity with the modern view about the "talent of communist denizen" or pursuit of happiness and individual pleasure from J.S. Mill. Second, they seemed to be determined between a might, force, warrior, hence, actual factor to engineer society and constituents as material subservient. So three came in the proper class among scholarly framers, citizens as fiduciary on their occupation, guardians or warrior governors. This triumvirates can also be compared with the context of American drafters and their ways of interaction in 18<sup>th</sup> century.

## **1-2-2. Invalidity, Rebuttal and Insight**

The last two critiques, however, may be rebut in multiple ways. First, the progressive nature of things offer the point to vitiate their criticism. This is not to say that the majority rule is more desired, but can operate to make a progress in some context. John Dewey's perspective on the extended use of democracy serves this purpose. By ways of practicing the democratic ways of subsistence, the society can see a progress, and ennobles as well as enriches the community (Kendall, W., 1951). Democracy is not only a political promise, but can be realized and should be practiced in every ways of our experience. In this view, the plutocracy argument may be transcended to progress, and it upstages a general base of educated citizen for progress. The ideals on "function of each citizen" as underpinned by Plato also share a point of agreement with J. Dewey's proposition. But Plato's view may not be apposite if we face the society of basic right to occupation. Plato stresses the distributive justice which brings a moral point and hence came in compliance with the social justice no

freedom to occupation (Santas, G., 2007). Second, democracy operated in the majority rule concept is actually predominant that we normally decide our fate in that way. If no genuine dissention is posed, it is more strongly featured, and hence constitutes a basic mode of decision making in many cases. One notable example is about the reform of US Senate restoring a popular representation on head-count basis.

## **2. Public Policy and Democratic Challenge**

### **2-1. The Canalization Project in Korean Government Since 2007**

In the former administration led by MB (Myung Bak Lee), the government pursued a canalization of vast localities at national scale. This initiative of Korean government was released to public in the presidential election, 2007, and becomes a point of contest on the policy package proposed by the former president. This public project was later reduced involving the improvement of four major rivers. An initial project was planned to make major four rivers in Korea conducive through, and transportation can be exploited on river ways. Its completion, hence, enables waterways to penetrate for the transportation of passengers and materials as well as goods. The plan was modified to diminish, in the face of public onslaught, which disabled the completion of unitary streams squarely penetrating four rivers. Except for a square penetration, other policy elements survived to pursue its ambition. This slight change generally failed to assuage the public anger from environmentalists and also was attacked from its less utility in the economic and social viewpoint. Given its nature of presidential priority, the former administration never dropped away the project and focused every effort on the strong ground of governmental support (Beard, C. A., 1993).

The policy reason for this project generally included the following aspects in view of policy outcome. The project would enable to prevent a potential of massive loss from the deluge or flooding. It also safeguards a clean and affordable environment as well as preserves the biology of water resource and rivers. The government proposed that it also could produce an economic benefit and facilitate the cultural enterprises. Most basically, the government sets a priority in ensuring the sufficient provision of water, which roused a fear of people along the years. In economic aspect, this “green new deals” was alleged to cultivate a local economy and create a new jobs for local people.

### **2-2.Challenge from the Civil Groups**

This ambitious plan was challenged by concerned group of civilians which placed a high pressure in dissention by hindering the resolution of issue (Gilley, B., 2009). Their argument may come in summary on their essential oppositions. They counter-argued a governmental proposition on the ground that the artificial implant of trees is never effective to prevent the loss of deluge and flooding. Its effect of prevention would practically be less great in their views. They also disagree that the exploitation of natural water and rivers rather brings a destructive consequence about the natural stream of biology and their preservation effect also is seriously questioned. Their point of contention also triggers an abusive use of budget which requires a tremendous amount of dollars. They seriously argued about the ways of finance and budget which increase a burden of excessive taxes and duties. They suspect

that a half of required dollars would perhaps be allocated from the tax collections. The expected that the budget would range about 2.2 trillion Korean dollars, but in comparison, the public can have a sense if only 0.4 trillion can resolve such chronic issue concerning the food program in all scope of public schools. A budgetary issue was serious if the government reduced the social welfare programs just because the budget cannot be met in requisitions from the usual amount of collected taxes. This project was pushed forward in a speedier manner, and violated many internal regulations on tax and budget allocation. This problem offered one cause that the press and media were advised to stay in silence. Their final mount of criticism on this project concerned less persuasion and misdirection of public about the water resource (Miller, J., 2002). The government initially stressed the point of UN classification of South Korea as one of water shortage country. Policy administrators on this canalization project also added that the condition of major rivers in Korea severely aggravated and the quality of water resource downgraded seriously. This aspect was presented to the public on ads and propaganda. The Korean public raised suspicion about the deceptive nature of ads and propaganda that the scenes and pictures in the videotape are mainly from the worse countries in environmental depredation and highly troubled with polluted rivers. The government illustrated a big bird never migrating in seasons which may confirm the serious quality of rivers. But the local evidence counteracted that that is not true in cases. Points of proposition on the economic rationale also failed to gainsay principally because most corporations participating in this project are headquartered in Seoul other than local cities. On public speculation, it also poses some of governmental ethics if many partner enterprises are owned or managed by relatives and close friends of former president (Santas, G., 2007). Their last point about job creation also went skeptical of its fair impact. The project may create temporary jobs for the unemployed local people, but that is not a final solution for them. A more crucial point in unemployment issues is generally viewed in terms of increasing the job quality. Labor unions daily raised their voice to transform the contingent workers into some regular job status.

In the progress, some expert opinions were sought from more experienced nation, Germany and other global water quality researchers provided a testimony and professional advice. Germany, as we know, is a nation who exploited the most grand of inland canals. Their opinion and views were negative as pointing to a precaution, particularly on the erection of river dams. They even filed a request to quit the construction of dams since they facilitate a rotten reservoir from the intrinsic attribute of inland rivers. Korean government persuaded them that the dams would be constructed by an updated technology of IT. Their strategy in the stock market also provoked a public response if any artificial ways to meddle their stock price were schemed. Their research site was available to public, and hence many points of reference could be obtained through the internet site. The involved enterprises are in some vast scope, including Ultra Construction, Special Construction, Iwha Common Prosperity, Dong Shin Construction, Samho Exploitation, Home Center, Sam Mok Timbers, Reneco, Daeho AL, Nature and Environment, and Yoo-Shin.

### **2-3. A Concluding Reflection**

Unusually in Korea, the democratic opposition to challenge a specific policy issue has taken the form of street demonstration, picketing, or other means of physical confrontation. They often failed in the event merely producing sad stories of police suppression or imprisonment of opposition leaders (Gilley, B., 2009). In this case, the opposition takes a diverse engagement, which would be extensive over the general of society.



That is particularly conceived since the issues are grand enough as compatible with the Tennessee Valley Program in new deal era of United States. Actually, this grand project may portray MB with a sarcasm in public communication, and typified as the symbol of his administration (Laureate Education, Inc., 2009). The project is his government itself that the public response, mainly in negative tense and tone, was vast and continual. The civil activist groups often led a popular opposition by inculcating and educating the public. A public forum and debate flourished to discourage the concerned offices of government. The consequence has been devastating to stall the project which expended an amount of public funds in no effect. Honestly, there were pros and cons on the project and if they were pursued with the public assent and spiritual support, the chance of project success apparently seems greater (Jenco, L., 2003). Democracy theoretically guides the policy administrators in basic context, however, unfettered intervention through the specific policy would bring an aspect of harms against the production of public goodness and favored policy outcomes. It is often true that the democratic voice should be welcomed and the policy administrators need to respond in faith. In some of selected circumstances, it would go as contrary. Democracy never guarantees a wisdom of public policy as if the founding fathers were cautious of the unfettered influence of general people over the government (Beard, C. A., 1993). The accountability of public office requires a policy maker and administrator to respond in requisite ways. In some context, plutocracy and competent bureaucrats or eliticism, as well as leadership would say more against the fattened logic of democracy.



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## **Chapter XII. Lessons from the US and Korea : A Comment on the Democracy and their Governance**

### **1.A Classic Democracy and Post-Colonial Nation States**

My intent to compare the democracy will focus on the post-colonial Korea lasting relatively shorter and the US. The context perhaps would go placid given a scope of post-colonial narratives from the historians or comparative political scientists. United States is unique that they generally are less ascribed as a kind of imperialistic power, but comes analogous from a wider scope of classic institution unabridged by outside influences, at least since its independence in 1787 (Website: Constitution Finder, 2013). There are a dyad of aspect in identifying US in the purview of empire studies. US has historically practiced an imperialism in Philippine, Hawaii, and some of Caribbean islands. That engagement was pursued in the interaction and struggle with other major powers then, but formally disbanded after the bitter experience of world wars. New born United Nation laid a foundation of world order in the ideal of nationalism and sovereignty in its prevailing spirit. On the other, the organization also acquiesced with the security role of major powers, which saw it crucial in the realist understanding of world politics. Other aspect of US empire comes fairly hypothetical and in contemporary coattail often argued by a group of political scientists. For them, chess board or global police power seems helpful to explore a genuine dynamism to describe the US profile of preeminence involved in the world politics. This view has been strong through the late 1980's and around the early years of new millennium. Since forward, some scholars perceived the tendency of bipolar or multiple interplay of major powers and blocs. Nowadays, G2 was seriously analyzed as frames the world powers in a new light. They often consider G2 concept plausible, but also derive a meaningful assessment about the weaknesses of China.

### **2.A Comparison between the US and Korea: Democracy and Governance**

Under this backdrop, I prefer the illustration of Korea as compared to US, and hopefully, the points of comparison may enable a sharing for the apprehension of others' democracy progressing in the same context of political and developmental history. In this lesson, I draw upon three elements which can be commonly considered. One is that Korea is a new born nation in new arrangement of the world politics around 1945-1948. She was politically emancipated in 1945 right after the surrender of Japanese emperor. Upon years of the domestic contention, Korea inaugurated as a democratic constitutional state in 1948. A second element is that the nation has undertaken the path of development typical of (i) grant, (ii) state-led economic plan, and pushed to the (iii) paradigm of developed economy. A third element lies in the political progress as concomitant with the stages of economic paradigm. This exposes that the first ten years from 1948 through 1960 are the "great person politics," figured by Seung Man Lee. He had been a hero during the Japanese rule for the national independence, and also his charisma doubled by his hereditary basis from Chosun dynasty. The next twenty years and more can be defined a militaristic centralization of national power led by Park and Chun. Particularly, President Park led a stage of national economic plan, which made Korea one of miracle in the rapid economic transformation and progress (John, P., & Cole, A., 2000). Chun also focused on the economic progress, but also pursued an

adapted national condition for the social justice and universal welfare. The next years over Noh, two Kims, and another Noh and most recent Lee (1987-2012) have experimented a nub of contest in overall challenge toward a developed status of nation. So democracy, in western terms, was seriously pursued and became rapidly settled since late 1980's. That can be drawn in a fine comparison with the previous administrations. A charisma and least condition about a democratic education and experience prevailed the first ten years. If we set aside the economic effect, the situation turned worse if the nation was enthralled into a strong military leadership for the second period. In the context of progress, the northern regime factored to shape the wake of evolution in the peninsular by Korean war in early 1950's and southern propaganda against its constant threat. It generally contributed more organized or tightened compact to rule, and evoked a national diligence for any better nation. It can, however, more properly be perceived to effect a lagged context of long decades delay in the prevailing concept of western democracy. The points of comparison concerning democracy revealed several attributes as differ from that of US.

First, democracy in less developed countries has been and is not uniquely as the pure domestic issues in the late 20<sup>th</sup> century and through the new millennium. It offers as one of sensitive international issues which, in some cases, legitimates a sanction or other countering actions from the UN or others. The apartheid in South Africa is one example, and North Korea or China also is considered a popular culprit contradicting a civilized understanding of human rights. US also practiced the slavery or other human rights violation can be charted, but generally did not evoke an international controversy given in the 19<sup>th</sup> century (Website: Constitution Finder, 2013). That is also the case in history for Great Britain and France. Nowadays evangelical understanding of basic human rights actually formed some crux of international governance as guided by its spirit and foundation. It is, however, noteworthy that South Korea has had a good grade about human rights condition. This is generally true if she had neither been wealthier nor developed in economic aspect. Of course, the domestic viewpoint can touch on in more depth that a considerable number of Korean intellectuals now see past wrongs in a new perspective. This differences between "domestic and international" may come in due course from four ways. First, the nation organized well to facilitate an industrialization is effective to blind their nations to concentrate on a brightline path for some of affordable future. This factor also appeals the international community on its notable progress and merits an international accolade. This serves a set-off effect to effectively mask the domestic problems and ailments. Second, the degradation of human rights may come less sensible if it does not involve the same strand of discrimination such as race or ethnicity. Third, the scope or intensity of human rights abuse also pertains if Korean case is less powerful, but rather incidental or limited in its scope. Fourth, the human rights violation in South Korea often triggered an antagonism of political ideology which has not settled in any complete arrangement even in US (Website: Constitution Finder, 2013). Thus, political justice now debated in the context of anti-terrorism state since the ground zero may come compatible with 1970's and 1980's Korea in some sense and analogy.

Second, the institutions of democracy in South Korea often took a recourse of its flaws to the constitutional provision, which in fact should be more dominantly embroiled with the political leadership. This has brought an excess in the number of constitutional revisions dealing with the forms of government (Website: National Constitutions, 2013). The typical pattern from the liberal concept of human rights toward a social welfare promise also is not orbited in the practice of constitutional reform. Korea has the most advanced form of

public welfare constitution, but now it maintains its leverage by incorporating most fundamental ideas of liberal state, pursuit of happiness and right to privacy as late in the 1989's occasion. This has an implication that the 1949's Bonn constitution already allowed a modality for the constitutional drafters of Korea, which could be considered most civilized arrangements about the liberty and social welfare in a bitter retrospect of German aggression and national vision of new beginning. In this regard, we can derive from Korean experience that a developed status of nation may be less prone to revise their supreme laws (Website: National Constitutions, 2013). Korea has nine occasions of the constitutional reform until 1989 which turned to be neither charismatic nor any stronger of military leadership as differed from the earlier ones. Since then, no constitutional reform was undertaken through 25 years. Given the significance of 1949 German constitution, the basic framework dealing with the liberal concept of human rights and advanced form of social rights had already well be settled around 1949. This implies that the constitutional reform pursued by the underdeveloped countries often centers around the forms of government evincing a less recognition about the social progress. That is some point of distinction that we experience in order of time from the minimal state concept to the New Deals in 1930's US. Finally, most of new independent nations around 1940 and 1950's normally adopted a presidential system of government for their efficiency and effective administration from a centralization of national powers (Website: National Constitutions, 2013). This evinces their usual commitment of national development and wishes to boost their economy.

Third, the article by Maeda and Nishikawa proposed the hypothesis and survey analysis concerning a durability of party control for administration, which should vary with the parliamentary and presidential form of government (Maeda, K., & Nishikawa, M., 2006). It shows a helpful point that the former form is more stable to seize the control in lengthier years. They also suggest that the presidential government can be more responsible and timely to address the wishes of people. The accountability of government comes into a point between the two different system (Maeda, K., & Nishikawa, M., 2006). In terms of the stable policy pursuit and formation in more credit, the article also hints that the parliamentary system can be more resilient and in relatively long tracks despite its institutional agreement on instantaneity of switch and new election or cabinet. For the policy makers, their specialization may prefer the parliamentary system if they have any track of beliefs or enriched conviction about the policy items. We need, however, bear to keep dear from the corruptive tendency or law abiding attitudes about the policy network. They can keep on a continued stance with their favored party since the party, particularly in Japan, less swings nor sways on the instantaneous tide of constituents (Maeda, K., & Nishikawa, M., 2006). However, it also is a dominant factor what extent the governmental employees are permitted for the party affiliation and political activities. In Korea, less activism from the policy officers have long been present partly because Korea is the presidential country. Of course, the principal reason is that a kind of dictatorship generally chilled the circle of bureaucrats and thus sustained the less democratically working administrators and officers. They usually had been shunned from the central power of president and their intimate political comrades. This brought a consequence of very competent technocrats who studied abroad and were armed with an extent of loyalty to the central power. They were a principal driver to advance the national economy, but in strict adherence with the line authority, constituted a part of oppressive unilateralism. Hence the policy network or other developed culture within the western bureaucracy had been less likely through the national progress until 1989. In some aspect, their attitudes about the democracy also were perfunctory who are less prone to

respect the constitution or the laws of congress than to ensure their bureaucratic interest. The command and order from a powerful echelon would substitute dominantly the words of law.

### **3.A Concluding Remark**

In the course of discussion, I presented a brief of comparison which is historical, institutional, and some of concern about the bureaucracy. That is far less exhaustive, but I like to make a point about the extent of differences as present despite their quasi-religious recourse of democracy. We often are versed with the dynamism of democracy between the developed and underdeveloped group of nations. This approach may help to understand the basics of difference, and can enable to specify each case of democratic rule. Democracy is prevailing now, but it requires an intense investigation to reach the truths of practice and practical lessons as evinced by John and Cole (John, P., & Cole, A., 2000). France and Great Britain have the similarities and differences in respect of their specific policy concerning the economy and public education. There exist variables on the locale, institution, history and others (John, P., & Cole, A., 2000). I attempted to brief between Korea, one of post colonial nations and US, one of most advanced nation in the world. Even in the threshold nature of dealings, we were able to find factors about the practice of democracy. That should also differ across the countries, which is not in unison with easy generalization.

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# **Chapter XIII. A Reform Agenda of WTO Revisited : The Elements of Public Administration and International Organization**

## **1.Introduction**

For the contemporary discourse of public administration and governance issue, I found that there is little or basically no literature to discuss the theme on how we approach or establish the basic ways of dealings for governance issues of international organization (March J.G., 1995). I mean that the lack of our posture would less concern the governance issues in comprehensive context. There are many case studies to address the issue of public administration or organizational reform while offering the keys to understand specifically. A research design and findings they produce are practically helpful, but we would still be thirsty for some kind of understandings in any structured and systemic uniformity or differences. We now face the globalized and mutually interdependent world community where the geographical compression brings us to be virtual and in some of akin relationships. This situates us to experience the public services, which are the consequence as the types of organization multiply. New types of business arose, and the traditional pattern diminishes in some sector. There are also rampant of new public sectors or NGOs, which organize their mission to redress the injustice of world community. WTO could be one illustration which ramified from the GATT, but could be empowered for the scope of international trade issues. Its organizational profile was fundamentally restructured to correspond to the trend of international politics and trade. Meanwhile, the Korean constitution in 1987 also reflects the ongoing development of constitutional culture and democratic governance in the national government (March J.G., 1995). The pursuit for better laws now is a critical element that jurists across the jurisdiction envisage in the uniform private law initiatives. Then the uniform law movements ignite a form of governance from the national to international paradigm in some sense. Koreans also achieved the success, around the 1990's, concerning the revision of commercial code for the interest of minority shareholders. The reform agenda involved the economic democracy which influences a paradigm of corporate governance. It principally focuses on the intrinsic rights and role of minority shareholder in the corporate context (Wright, Q., 1954). There are also the civil power whose role undertakes the monitoring, suggesting, mobilizing of public consensus for more desired, democratically legitimate, socially advocated justice in the society (Santas, G., 2007). They are nationally centered, but internationally friendly as well as in many cases cooperative or associated to share the issues of concern in common cause. Their issues cover the gender equality, economic justice, consumerism and environmentalism (Post, R., 2006).

Under this backdrop, the students of public administration and governance would perhaps mediate on how we perceive any points of comparison among the three major dimensions of organizational reform. Over most cases, they are disposed to uphold the efficiency, democracy, proper process, ethics, leadership, comparative analysis, and practical variations in specific cases, which would be, in their guiding elements, to address their concern (Boin, A., & Christensen, T., 2008). Yet to be remained as less referenced, the rubrics of organization and its delicacies in terms of mindset and key variables or principles to argue on are less worked out so as to refer the researchers to consider or evaluate. Hence, We often are disappointedly narrowed to explore some of classification of organizations, and their variables and relationships we need to consider in the studies of public governance.

This direction of thinking, however, is particularly necessary if the contemporary global community is rapidly growing, and the elements we traditionally received are changing or have changed. I already briefly made a point about the expanded or diversified forms of organization, which are objects for the governance scholars to work on. Two ways of meditation need to be embraced in evaluating the trends and dynamics. One concerns the technological development recently charted particularly in the interchange of information. The internet tools of communication seriously affected the pattern of subsistence or existence of global public, which in turn influenced the discourse of governance theory and its applications (Rich, W. C., 1998). The other would involve the democratic pathways to which the global public usually are trusted in approaching and resolving many intriguing issues. The international issues tend to increase in its scope due to globalization on one hand, and also due to the emerging way of public awareness. To say, the public can be more readily informed, and organized to protest for their cause as in the rampant NGOs or minority shareholder in Korea. This means that the new communicative tools, globalization, and global democratic powers are not the variables operating in separate dimension, but are united to impact on the traditional understanding of governance issues (March J.G., 1995).

In this project, I never say any complete review of WTO reform, nor exhaustive analysis among the types of organizations. That requires a heavy work to handle, so that my intent is to give a focus on the selective issues of WTO reform and its governance since 1987 through these days. As WTO is a major international organization and incorporated or will expand on a plethora of points on democracy and public governance involving the trade matters, it can work as a modality for the public governance of international organization. That would concern a prime topic of this project, and I would draw upon the needs of comparative insight for the researchers of organizational reform for various types. I hopefully expect that a more principled comparison or some proposition in a comprehensive ways should be a task for the future research dealing with the types of organization.

## **2.A Background for the Qualification and Competence**

For the case and brief of comparison on our journey in this paper, I believe to be qualified to deal with the organizations since I have long years of the teaching and researching career about them. WTO is a prime concern in the international trade law, and that falls within my specialization. I have long studied GATT/WTO laws and its institutional reform. I was invited on several occasions to give a public talk on that issue. I have long devoted my times and energy to delve around difficult constitutional issues, and have been empowered regularly to work for the higher national exams of judiciary. My scope and role of national examiner concerns the subject of constitutional law, which exhorted me highly for the issue concerning the reform of national judicial system (The Library of Congress, 2010). A corporate governance is one branch of thoughts for the commercial and international trade law scholars. So the background about my competence and qualification goes largely same as mentioned. Particularly, one colleague showed a high intention and enthusiasm to aid the work on this paper, and his views or advice was critically received to enrich this paper.

## **3.A Demand from the Environment and the Nature of Reform**

Around the 1970's and 1980s, what problems has the international community faced with in dealing with the governance issue of international trade? The circumstances provide a lynchpin of points for the reform issue of international trade regime. GATT was formulated in

1947 as a limited form to address the trade issues of each nation. It constituted one of three pillars for the foundation of international economy, which was a product of the Washington consensus at the end of World War II. It governed the trade regime during 40 years, but there emerged the growing needs to reform the organization with a scope of practical reasons. We, in this contemporaries, are required to approach the international organizations in some basic elements.

First, one point of consideration involves the high extent of globalization to tighten an interplay with the levels of that specific organization. We now live the world of condensed nature more than ever in other context of times. It can be made visionary and also in the context of plain level of our daily experiences. The technological development generally gives a powerful cause to share and interact on global scale. Particularly that of information or communication sectors contribute so much to expose us to a shared concept or intelligence to form the basis of common platform. So the policy workers of international organization could have much opportunities to shape their network or increase any of international cooperation (Miller, M. G., 1937). This point also influences the extensive reform of 1947 GATT, if indirectly or within the context of behind force, to create a huge form of WTO in 1987.

Second, the policy or reform issues in the international organization now, however, still operate in the context of “spider-web of governance,” but in a steady pace toward a more organized and in some hard feature to approximate the paradigm of national governance (March J.G., 1995). If the policy makers concern, the aspect of primary focus needs to be distinguished from the absence of central government and also in view of a less scope of hard laws for the governance of international organizations. The tendency has grown, however, to address each context that a specific organization may face to be committed. In UN, for example, the General Assembly increased its involvement, but still advisory or consultative only that the Security Council has a decisive say about the compulsory measure. A Scope of declarations, codes of conduct as well as resolutions across the state sovereignty of national economy, ethics of multinational corporation were made into law, but not of hard nature, what we call a “soft law” (Rohr, J. A. (2007). There have the practices increasingly flourished in organizational practice and even within its charter to employ a majority principle other than the unanimity of resolutions. The majority system erodes a traditional concept of state sovereignty and principle of subsidiary in the international laws. The growth of more intensified nature, in the governance of international organization, ranges a scope of jurisdictions, in which the international criminal as well as maritime tribunal was created in 1990’s. WTO, as described below, has refurbished extensively the form of 1947 GATT in a square of important issues entrenched during 40 years of the trade administration (Rosenbloom, D. H., Kravchuk, R. S., & Clerkin, R. M., 2009). In the regional context, Europe has reformed to consolidate the economic integration, and Euro became an official currency in which most of key countries fall within the Euro Zone. We also can witness a tendency of regional integration in Asia, and other blocks competing to protect their interests. The tool of international trade also popularizes an FTA method, for example, US with Korea, and high possibilities of US with EU (The Johns Hopkins Center for Civil Society Studies., 2003). The activities of NGOs are now growing remarkably, in which the present registration statistics of NGOs now multiplied in ten times since 1980’s. All these changes, varying and being specified to the sphere of agenda, generally contributed to the growing similarities in its dynamics to the national context.

Therefore, we have some points of generalization within the (i) growing intensity of governance or control, (ii) extension of its roles, and (iii) interplay among another where the

international organizations tend toward the national ways of systemic governance, but the international society basically has a spider form of integrity. To say, the scope of organizational issues tend to expand by creating a new international organization to correspond with. The traditional instruments, such as FTA, also may be rejuvenated with some of improved forms, and employed more frequently to redress the issues. We can also verify a high profile of organizational involvement in WTO, UN General Assembly or others which can compare to the positive role of modern administrative state. The mode of governance may have a progressive form transcending the traditional notion of state sovereignty as found in the majority rule (Lovett, F., 2006). NGOs vindicate the civic virtue, and its enhanced engagement can be assimilated to the interest groups of respective nation. A regional integration often be considered in a contrasting highlight with the unitary rule of WTO or UN and other global scale of international organizations. Some could argue its positive contribution, while others perceive it conflicting with the commoner scheme of governance. This dualism may be considered to mirror with the federalism between the state role and federal government in analogy (Krane, D., & Koenig, H., 2005).

#### **4.The Democratic Principles, and Communication toward the Enhanced Tools and Expanded Networks**

Let me waive other points in general consideration to enter our topic concerning WTO. The policy issue of WTO reform in the context of our purpose has come forward under the backdrop of above presentation. Globalization brought the needs of change in the trade administration of GATT. It, in due course of evolution, generated a condition for increasing the international trade of goods, and the service sector of trade increased significantly. A new mode of industrialization focused on high technology, as well as new perspective on the cultural and intellectual capital brought the community with the necessities of creating the new regime of trade- related intellectual property (Machan, T., 2005). It also ignited the dormant issues of agricultural product and other chronicled points of debate concerning the trade administration. Globalization also played to raise the voice of major developing economies which were matched constructively with the major powers, US and EU, on new dealings of bilateralism in the trade affairs. The mode of governance came at forefront which promised to transform the weaker and limited engagement of 1947 GATT. 1947 GATT administered a limited scope of trade sectors, which concerned trade of goods. The GATT regime transformed gradually over the course of long years, established several MNTAs (Multinational Trade Agreements), and produced the GATT rules by panel decisions and practices. Its role, however, had institutionally shrunk in the limited context of lowering tariffs, and less efficient to ensure a more comprehensive and organized governance. This led major powers, in 1980's, to deviate the multilateralism of GATT in the pursuit to address their retreat from the market and trade as well as fiscal deficits. The measures on bilateral interaction could rise as a painful alternative to blur the potency of 1947 GATT. We usually refer to this context as "grey area" which is ambiguous of its legitimacy within the GATT administration (Rosenbloom, D. H., Kravchuk, R. S., & Clerkin, R. M., 2009). For example, the MFA regime was agreed to disintegrate from the GATT governance. OMA and VERs were raised up to reduce the allegedly prejudicial effect of free market system (Gilley, B., 2009). New protectionism, practiced by the pinch economies of advanced nations, particularly the US, had a surge and uproar urging the fair trade ideals which come in some perverted way against the same words-ideal upheld by the underdeveloped economies. While the latter often proposes the legitimate nature of favorable treatment to for the

underdeveloped economies, the fair trade argued by the US and other advanced economies stress a level playing field on the equal opportunity and non-discrimination (Fisher, L & Harrieger K.J., 2011). In late 1980's, the international community aggressively took the reform issue in a most fundamental way, which eventually restored the GATT to an ITO (International Trade Organization) type as envisaged in 1947. The challenges to the policy makers were large in its scope and radical on the form of governance.

First, they planned in a very schemed way to increase the role and effect of WTO governance by increasing the power of judicial role on trade disputes (The Library of Congress, 2010).

Second, they intended to expand the sectors and issues of international trade and its membership which can be similarly contextualized with the rise of administrative state. They have actually had made more laws and regulations in the form of MNTAs enabling them to feature as a comprehensive umpire of international trade. GATT was actually a form of bureaucrats to interconnect as a mediator for the small scope of developed and manufacturing economies.

Third, the reform issue was not entirely completed, but understood by the participating countries of Uruguay Round as an open and ongoing process toward the single market of world, which is as grounded on the principle of the liberalistic, free and fair economy (Gunn, C., 2000). Most notably, negotiations on the service trade had been disposed as an interim regime open to complete upon further talks and negotiations among each member state (Rich, W. C., 1998). Many provisions of time or period element also are seen to take account of the political nature of organization. WTO now has a well-organized institutional profile to ensure the predictability and stability on one hand, but also was let open to the policy pressure or reform demand posed by new challenges. Uruguay Round made its commission largely successful to reform GATT, and enabled to launch the new trade regime of WTO. That is not a final destination, however, and now it explores the emerging WTO agendas in several major issues. CR (Competition Round), BR(Blue Round), ER (Environmental Round), TR (Technology Round), and other few are the names in which WTO is involved as a new challenge. NGOs are increasing their concern in the context of WTO governance, which also seriously interact with the WTO administration in the limited official context, but largely on the civil plane as a pressure group (March J.G., 1995). The role and responsibility of NGOs are now considered whether WTO reform should be made to incorporate them into one institutional element.

## **5.The Democratic Principles and Efficacy of the Judicial Function**

One variable developed in the reform of WTO essentially was concerned of the efficiency of adjudicatory role. 1947 GATT was, in its very nature, a political organization, which was designed to serve the sovereignty of member state. This inherently led the GATT to improve by enhancing the predictability and legal stability for free trade ideals. The rule of law had featured far crippled which is usual in theory and practice over vast other organizations of international nature. GATT managed a panel system to adjudicate the trade dispute referred by the member states, and produced case laws actually. However, the extent of panel's role was not so invigorated, and worse is that their decision could never come into effect unless all member states agreed to sustain. One vote of dissent from the member states could effectively annul the panel's decision (Jenco, L., 2003). In WTO, it was drastically transformed that the decision of panel becomes official to effect unless all member states

disagree. One favor from any member state now enables the panel decision to progress in restoring the justice as set forth in DSU. We, therefore, call it a “reversed consensus system” to make a decision effective and final in the title of DSB’s resolution. This means that the judicial nature of organization overwhelms the political intent of each member state (The Library of Congress, 2010). This cogent system on judicial hierarchy enhanced a liberal justice of economy and fair trade ideal which the democratic governance long adhered with (March J.G., 1995). The profile of WTO judicial organ also was reformed to create an appellate body which is responsible to the appellate review of panel decision. This dual review on the appeal system serves to increase a uniform application of WTO laws, and ensures its coherent interpretation as well as the integrity of WTO laws. It, therefore, takes a reduced, but focused role exclusively on the interpretation of trade treaties. The fact finding is, henceforth, determinative of panel’s responsibility, which binds the appellate body (Rosenbloom, D. H., Kravchuk, R. S., & Clerkin, R. M., 2009). This division of judicial labor largely dominates most of democratic nations in the contemporary context, which ensures a precision and prudence of justice. One of most troubles in the past institution concerning the dispute settlement system arose from the procrastinating practice of disputed parties. They normally were less motivated to respond to the panel process, particularly if militating against their case. GATT actually had no official norms which governed the procedural issue. That particularly aggravated a compliance of timely interaction and delayed the panel proceedings generally. WTO enacted an authoritative and comprehensive DSU, which is defined to apply to most of trade disputes with few exceptions of special proceeding. A speedy trial is one ideal necessary for democratic governance. The tool of hard laws as titled DSU (Understanding of Dispute Settlement) has a high feature to work out this dilemma exposed through the decades of GATT governance (Schneider, A., & Ingram, H., 1990).

## **6.The Democratic Principles and WTO Governance**

In understanding a reform agenda of WTO, we have a same idea of commonality and diversity concerning the national constitutions (Beard, C. A., 1993). In the contract law, we know that the boiler plate clause serves the common role to flatten various extents, nature, or subject matter of constitution. To say, the default clause, choice of law and agreement of competent jurisdiction or arbitration proceedings generally constitute a common element often included in the contract. The social contract theory, in terms of democratic principle, largely contributed as founding the groundbreaking perspective against the divinity and absoluteness of monarchy. It incorporated the essence of constituents, and was a major thought corroborating with the enlightenment ages. That theory provided a morphology of modern democracy, and could be substantiated with those of other modern thinkers. Montesquieu separation of powers principle, and liberty concept developed by Mills, as coupled with practices and revolution, enabled the current form of governance (Brink, D., 2007). Mill’s moral and political philosophy.. These planes, nonetheless, share the common forms in structure, and pose a typical pathway of investigating the organization or governance. The international organizations, however, require us to derive a special context including its scope of mission, ways of interaction, tools available, ethics and networks involved in the aspect of public policy or administration (Rohr, J. A., 2007). They are far less general nor comprehensive unlike the government of specific nation or state (Beard, C. A., 1993). Their goal may, in the extent of cases, be limited to a founding document of treaties, and their function or responsibilities are administrial in nature on some of horizontal dynamism. They lack power to govern the member states, and the consensus type of resolution should be

adopted in principle, but with some exception, in any pretty compliance with the sovereignty concept of traditional international law. The resources, which the organizations rely on for the enforcement of policy, are rather restrictive lacking three elements as a state, territory, population, and sovereign power.

In the WTO reform, the diversity and democratic principles or governance took an extent of fare as a point of focus (Levine, D. P., 2003; Wulf A., 2012). As we see the ideals of GATT or WTO, the organization was envisaged in its basic disposition to administer the international trade fairly and within the libertarian concept. They set forth, as the ultimate goals, the multilateralism, liberal and fare trade, and non-discrimination principle (Post, R., 2006). The institution was created in 1947 upon the series of peace-purported conference by the prevailing nations of World War II. In one dimension, the major powers organized the UN in political terms and commission, which should not, however, be square or genuine in its power and competence as compared with the nation state. It now represented the most idealistic form of world politics, but the realist road legitimately carries their viewpoint about the genuine and historical nature of political theory. In another dimension, the world economy saw their framework of governance necessary to address the peace regime at global scale (March J.G., 1995). Washington conference concluded three pillars of the world economic regime, which encompassed the financial, foreign currency and exchange rate, and the trade issues. So we can see that key sectors were targeted in the conference to deal with, to say, the financial sector and real sector of world economy. The jurisdiction of GATT/WTO pertains to the latter. Initially in 1947, the major powers and conference members pursued a more comprehensive and powerful nature of organizations, what we call ITO. But the agreement was eventually vetoed by the US Senate, which failed its incorporation into the US laws. It offered a major cause that ITO was exhumed by the replacement of GATT, which is a limited form of organization. GATT could well be seen as a bureaucratic outlet led by the major political and economic powers, and performed its role for over 50 years thereafter. GATT adhered with the ideals in its fundament of organization, but practices were not sheerly complete to satisfy the democratic ideals. GATT's membership was limited to then industrialized nations covering as less as 23 original members. If we term one element of democratic governance as "inclusiveness and universal participation," the limited membership is bound to selective practices exclusively preserved for the developed nations. Of course, the rationale could be easily for our guess that the issue involved a trade and economy the rule of which could not be shared or applied in less an equal context (Fisher, L & Harrieger K.J., 2011). A most powerful and practical reason may be found that the most colonial states had not been liberated as a matter of legal viewpoint. Still the trusteeship, delegated rule, and other forms of interim arrangement in the form of governance were practiced for some incompetent tribes, aspiring nation-hopefuls, and sectors of political group. GATT membership, thereafter, had increasingly grown on the basis of their economic status and practical availability to interact with the organization. We can note through this progress that the public policy and democratic governance requires a precondition of the laws formalistically and economy or other many substantial elements enabling its tools, networks, and ideals to function as designed (March J.G., 1995). Secondly, GATT was rather limited to the sector of goods trade in the international market. They discarded any plan or policy considerations to deal with the agriculture or fishery, and trade of services. They stayed excluding the intellectual property issue, and a scope of issues derived from the trade of goods were gotten out of their sight and ambit. Their entire focus was surrounded by the tariff issue and a scope of non- tariff barriers remained unaddressed until late as 1970's Tokyo Round. This point of concern is conducive with our hypothesis that a number of international

organizations took the nature of specialization. GATT and WTO have been devoted to the management of international trade as a regime grounded on the multinational trade agreements. Their task and responsibility was specially assigned to the trade issues, which made the general principle of democratic governance distinct from the nation or state government (March J.G., 1995). On one extreme of our spectrum, we can illustrate IMF whose political voice was weighed in terms of their share in IMF. Equal vote or participation was not fair in their specialization (Fisher, L & Harrieger K.J., 2011). UN is a most representative general form of international organizations. However, if we consider the UN as specialized to ensure an international security and peace, the veto power of permanent members, and selective security group of nations, on neither permanent status, could be understood also in the kind of deviating practices concerning the democratic governance (Gilley, B., 2009).

## **7. A Diversity Issue and Multilateralism**

A multilateralism of GATT, from the view of diversity, was aggravated around 1970's and 1980s which exposed the frame of governance to deviate or be crippled by practicing partially the bilateralism of major economy (Selden, S. C., & Selden, F., 2001). Newly developed economies surged to push the developed nations into a measure of new protectionism. MFA is a typical case as unleashed from the GATT regime, and OMA (Orderly Market Arrangement) or VERs (Voluntary Export Restraints) were utilized to defend their market in the goal of restoring their fiscal and trade deficit for any sound indicators. A multilateralism, as grounded on the ideal of liberal enterprise and non-discrimination, can be generally assessed to comply with the democratic principle (Post, R., 2006). The goals were distorted to address the special need of US and major economies, which would be inextricable in some sense, but undesirable with the ideals. As a policy student, we need to have an awareness that there exist a scope of soft laws in the area of international laws possessing less a binding power. In addition, the legal vacuum, ambiguities and gaps within the labyrinth of international and national laws allow the policy makers a leeway of strategic option to devise their wise policy. The class of trade policies, what we call a "grey area of measures," could be viewed in that context where they could not be condemned in any absolute violation of norms, but could be considered as contrary to the major directions or ideals. Other example about this looseness principle of international governance would perhaps be found in the notorious example of "extraterritorial applications of law." In this point, the concern matters with the dilemma that there could be overlapping jurisdictions, and that the territoriality principle strongly embedded in the international law theory bears on some conflicting dynamism. In one of notable cases, titled as "Uranium Cartel," the conflict aggravated into the enactment of several blocking statutes by the interested nation over the period of 14 years (1964-1978), and lengthy negotiations on the diplomatic channel and hardship of bitter compromise. While we have no central government, the international norms are produced by mutual agreements. So the bargaining power involves at higher extent, and the actors or networks in play are diverse and less clearly defined in various reasons (Jenco, L., 2003). So the lobbying elements in democratic governance would be more softened and could be extended given the loose nature of interaction. The policy makers specialized in diplomacy would be key players, but lawyers, domestic interest groups or administrators also are interested and interplay but in a less direct way. The nature of policy stance and interests also is diverse and in a major context, as tending to divulge the sharp conflict of interest among the developed and developing as well as least developed economies. They are a



distinct force of dynamism, but their interaction was not patterned in discrete ways. They are, however, related with each other to create a consensus for the policy agenda of international organization.

As the ideal of trade liberalization empowers the basic plane of global market, the fairness conception comes in a complicated force. Basically, there are tendencies to perceive differently from the major two groups. The western developed economy often views the fair trade in apprehension of level playing field (Mill, J. S., 1909). They stress to ensure a fair condition that each player can pursue their trade interest in equal opportunity. In contrast, the underdeveloped economies pull out their point of focus in terms of substantial justice (Santas, G., 2007). They propose the theme “equal treated equal, different treated different” where some of positive liberty concept might be constructively applied to the international trade issue. So the trade states in this contemporary governance ranged in an extended diversity which requires the WTO administrators or policy makers to respond in the concept of democratic ideals (Levine, D. P., 2003). Over vast of MTAs, there are principles and tools to pursue this point of policy considerations (Sandfort, J., Selden, S. C., & Sowa, J. E., 2008). A number of MNTAs have adopted the class of member state in three groups, i.e., developed, underdeveloped and least developed countries. They termed in command of substantial justice, and legitimized a favored treatment for the deprived countries. In other words, MFNT (Most Favored Nation Treatment), NT (National Treatment), and Article 11 of GATT, which are major clauses to lead the organization may be exempted at the extent of proper form to favor the two latter groups. Other tools to ensure the substantive justice as well as to address the diversity context of organization spread within a scope of agreements while immunizing for a statutory period from the strict duties or obligations, or offering a special proceedings for their trade dispute (Santas, G., 2007). The TRIPs (Trade Related Intellectual Properties) Agreement, for example, defers its effect of complying with the treaty terms to the advantage of underdeveloped and least developed countries. ASCM (Agreement on the Subsidies and Countervailing Measure) also includes special provisions to treat differently and in favored conditions to ensure the substantive justice. The diversity issue, in WTO, can be seen as one lynchpin of WTO commissions, which is, in view of the democratic ideal, politically sensitive, interactive, negotiable and less hard to be idealistic (Levine, D. P., 2003). A network to ensure it is also intriguing in some aspect, where the political measure may be applied to complement with the legal nature of treaty. The waiver system represents, as a notable exception, to invigorate WTO dynamism. Upon the extraordinary conditions, the resolution of WTO by weightier majority exempts the duty of member states. This clause, therefore, is a breathing space allowing a political sway from the myriad of WTO provisions. The GSP (Generalized System of Preferences) institution, pursued by UNCTAD, to benefit the underdeveloped countries was made available by networking their efforts with the waiver system in WTO. GSP actually was designed to violate the WTO principles, but the political consensus enabled their mission. WTO, then, is the kind of incandescent bulb as a supreme body of trade regime in the global market, which is most unique, if compared to other organizations, in its organizational density, depth of engagement, and practical vitality.

## **8.The Policy Tools and Networks Toward the Hard Nature**

In reforming and managing the trade regime in the international context, the analytical tools should not be the same, even if it could be close to domestic governance as of its nature of administration (Rosenbloom, D. H., Kravchuk, R. S., & Clerkin, R. M., 2009). Paradoxically, the international organization may be more amenable to the concept of

administration provided that the politics or compulsory nature of governance comes in subtlety, delicacy and diplomatic or negotiable ways. We can find a softened context, which thus offers a more space for wisdom or competition of policy ideas. Other views, however, pointed out some more rigid inflexibilities on the WTO laws since the revision of MNTAs actually is more challenging and thus less possibilities. However, it is true that the laws and governance in WTO are squarely based on the negotiation and dynamism of diverse influences (Miller, M. G., 1937). The laws also are from a less rigid case law in comparison of domestic reality, and the MTAs allow an ample gap or vacuum to enable many ways of different rulings. Due to the decades of WTO governance, we are available of a considerable number of case laws nowadays which are nonetheless less exploited than domestic laws (Ritchie, A. C., 1936). That nature still is true although 1947 GATT had produced many case laws and developed its institutional practices during the past half century. If we perceive WTO as one of most competitive and well-organized international organizations, the nature of other international organizations is actually poorer in its density and rigidity on the mode of governance. This implies that the public policy can tenor the organizations more than law so as not to be keen on any hard understanding of democratic principles or concept.

## **9.WTO Leadership and Interplay In the Network and Resources**

The leadership in GATT or WTO is also flexible which can flatten on the equal and negotiable basis (Boin, A., & Christensen, T., 2008; Waldron, J., 2004). Even if we experience 6<sup>th</sup> Kennedy Round in 1960's, we hardly illustrate any great person to symbolize the context of progress nor remarkable success of nation or organization. We do not have the names like Lincoln, Churchill, Ronald Reagan, neither Thatcher or Clemenceau. The UN secretary general also is not the direct figure in addressing the WTO leadership if WTO exclusively goes with the trade or economic issues. Therefore, in a leadership point, we may posit the differences in that the leaders are formally each minister from the member state and that they collaborate or compete, and negotiate to lead WTO and the formulation of its basic policy (Boin, A., & Christensen, T., 2008; Waldron, J., 2004). So the leadership was exercised in collegial fashion, which is similar to the domestic congress. The difference, however, is that they make the laws, but also that they are subject to their laws. In other words, they are norm givers on one hand, but on the other, the states they represent have to obey the laws. They are the kind of contracting party who do not rule in any hierarchical structure unlike the domestic congress (Lovett, F., 2006). Then the source of leadership rises more powerfully from the negotiation and as immensely interested parties. It critically lacks the objective, nor a neutral and distanced mode of involvement by the congressmen, but the policy or law making process is an essential part of their interests. A lobbying, coalition, and ex parte contact and hidden interchange could more easily practice in chances, but not necessarily so if the jurisdiction is particularized and limited. There are other reasons that the languages are different, and that the density of practices or common basis of sharing comes weaker. It often is due to its primly idealistic, but practically uncondensed or less network to combine them like within the more commonality or generality of nation. The leadership in GATT and WTO also has a point that the expert groups are a prime source to produce the leaders (Boin, A., & Christensen, T., 2008). They are not democratically elected, but largely encompassed a class of experts in the trade issue. The ministerial conference is a supreme body which convenes in the interval of several years. They discuss and determine the foundational issues and WTO agendas, whose pool principally is viewed a top rank diplomat

in each member state. They would be staffed with the network of trade diplomats in his home bureaucracy, and influence or orienteer collectively the competence and responsibility of organization (Rosenbloom, D. H., Kravchuk, R. S., & Clerkin, R. M. , 2009). The bureaucrats of WTO had been managed by the trade or public administration experts, and administer the institutional actions or programs in his or her responsibility. The bureaucrats in GATT had been a prime niche if GATT was limited and less competent. While it was reformed in new WTO, the bureaucrats could increase their scope of responsibility on one hand, but became less significant for the refined advancement of WTO (Rosenbloom, D. H., Kravchuk, R. S., & Clerkin, R. M., 2009). The bureaucrats perform their duty under the direction and command of the General Council which is the second highest rank in institutional hierarchy. The General Council was also comprised of high ranked diplomats in rich career on the trade issues.

In the concern about leadership, democratic principles, resources and networks, we are compelled to brief on the reform agenda of WTO adjudicatory system. GATT has the panel procedure which is judicial on one hand, and advisory in its expertise to GATT (The Library of Congress, 2010). One of fundamental flaws in GATT was alleged on its political or diplomatic nature of system. As the democratic concept or principle requires an independent judiciary, the judicial system enables the predictability and legal stability which is, however, less available in the international context. GATT was also no exception that the decision of panel could not be made a law if even one member state raises an objection. It is considered to comply with the principles of international law since the state sovereignty is absolute and preeminent. That is a fundamental point in terms of democratic governance between the domestic and national planes that the central court is lacking (March J.G., 1995). Although we have an ICJ in the restrictive jurisdiction both in subjects and procedure, we have no central civil courts. The new adjudicatory system is a sea change which was successful, and shifted the paradigm of understanding in its policy concept, resource and network. Three points need to be cast which cover enhancing the retaliatory measure, instituting an appellate body, and introducing a “reverse consensus system.” These points serve to increase the judicial nature of WTO, and accomplishments through the decades plainly prove the success of WTO reform. To say, now the international control of WTO was intensified in fairly efficient ways, and we may well attribute WTO, an “economic constitutionalism of trade governance.” It increased resources and tools to administer their commitment more effectively by allowing the diverse ways of retaliation in order of applicability (Sandfort, J., Selden, S. C., & Sowa, J. E., 2008). If the losing party dishonors or reneges on the decision of dispute settlement body, there is no way to respond the point of which is dissimilar to the domestic jurisdiction. Only way to ensure the effect of trade agreement is to remedy through the retaliation of prevailing party under the endorsement of WTO. The GATT ambit of retaliatory measure was limited, but the context of WTO was highly renovated to ensure the effective adherence of panel or appellate body’s decision. GATT also was unavailable upon the appellate review, but WTO in 1994 sponsored a double review by instituting a standing appellate body. It was comprised of seven judges whose power and competence are exclusively committed to the legal issues other than the fact finding. Their role and responsibility are same to the higher court in domestic jurisdiction that the interpretive issues of MNTAs should be finally resolved by AB (Appellate Body) and that they are bound by the facts found in the panel process. As WTO increased its profile as a judicial organ, the resources and tools of WTO primly shifted its emphasis on both organs (Sandfort, J., Selden, S. C., & Sowa, J. E., 2008). It also means a leadership now in WTO responsible to the trade administration of global market and domestic regulation can be more

properly highlighted in the context of AB judges (Boin, A., & Christensen, T., 2008). The network of WTO institution also should be viewed in a different light that the political and judicial interaction can be properly posited in comport with the nature of organization and “workable professionalism.” Formalistically, the panel and appellate body possess the character as a subsystem or subgovernment in the analysis of policy network. However, in the substantial nature of competence or policy making power, the panel and AB should be considered as producing the case laws in significant force. In the institutional frame, the dispute settlement body, which is both political and diplomatic in nature, takes a prime responsibility to resolve the trade dispute and the decision was issued in the name of DSB (Dispute Settlement Body) (Rosenbloom, D. H., Kravchuk, R. S., & Clerkin, R. M., 2009). The appellate body is unable to contradict the interpretation of member states on the MNTA provisions. Except for this basic arrangement in formality, AB actually is placed at the center of policy making in the international trade administration. Particularly, the reverse consensus system now working in the fundamentally perverted way to enable the panel and appellate body execute their duty like the domestic court. Now their decision only can be annulled where all the member states object to it. In view of policy making process and network, WTO has the dualism exposing a superiority of political or diplomatic branch in formality, but some primacy of panel or AB in reality. That is, in my view, one of distinct points in comparison with the domestic government. We generally see the three branches in equal weight for shaping a public policy, and also check and balance may ensure the tripartite government poised in the formality and reality (Fisher, L & Harrieger K.J., 2011). If a scholar theoretically classes the supreme court as a highest body in the nation, it generally is concerned of its role as a final arbiter of constitution. In any way, WTO jurisdiction can expand on the extended spectrum since there is no definite demarcation line between the public issues and trade. The TRIPs agreement typically vindicates this point. Now WTO explores new dimension of dealings what we popularly call a new agenda, to say, BR, CR, GR, and TR, all representing new areas of concern that WTO considers to address. In the course of new dealings, WTO interacts with a plethora of public organs in the kind of policy network or community. OECD, UNCTAD, UNCITRAL, ILO, NGOs, and others would be a subsystem for WTO to legislate or enforce the trade agreements.

## **10.The Ethics Between the National and International Organizations**

In the GATT/WTO reform, a challenge was posed against the traditional concept of state sovereignty. Several institutions and actions upstaged the sovereignty of each member state which can be understood in two ways. One group, vastly the countries of EU, has relatively a strong profile and historical ethics to defer to the hierarchy of treaties or international custom (Rohr, J. A., 2007). That is weaker in case for most British jurists and international lawyers of US. Korean constitution also provides an equal rank between the congressional act and treaties within the ladder of various nature of norms. This context of separate views basically entails a delicacy and subtlety in the cognizable grasp, and cliché of analysis about the practice of GATT and WTO. For example, US scholars argue that the “later-in-time rule” also should apply to the WTO laws. This implies that the US congress may enact a new statute contradicting the WTO laws which is not permissible in the first viewpoint. This question raises a serious issue concerning the nature of WTO organization given that WTO scholars ascribe a semi-constitutional nature to it. WTO laws encompass a scope of international treaties, what we call MNTAs and several of PTAs (Plurilateral Trade

Agreements). If the role and responsibility increased by the reform, this means that WTO may reshape partially the prevailing paradigm of sovereignty concept (Rosenbloom, D. H., Kravchuk, R. S., & Clerkin, R. M., 2009). There are tendencies also about several actions which are challenging, but safely instituted within the regime. They constituted basic elements in the creation of 1947 GATT, remains virtually pristine through the 1995 WTO. The majority or weighted system of majority in the decision making process had been introduced other than the unanimous or consensus mode of agreement. The waiver system, rule of revision, and other agendas are effected based on the vote, which does not require the unanimity. In the adaptive point to state sovereignty, the resolution of revision may not take an effect on the dissenting members. Toward a more independent organ transcending the mere aggregate of member states, the institution has seen much achievement for the uniform control and institutional integrity. They have invented a refined system of TPRM (Trade Policy Review Mechanism) which enables to make a prior review of trade policy by each member state. The system, as combined with the dispute settlement mechanism, approximated the institutional network of national government. Though limited to the international trade issues, we can see some form of executive, imperfect though, with the TPRM, which can play an initiating control. TPRM apparently is a fine match as undertaking a police role, with the dispute settlement body, which is judicial and provides a post remedial service. DSU also heavily reformed to make it the appearance of domestic code concerning the civil or criminal procedure. A detailed provision was spelled out to set forth a specific time requirement, an extended application of retaliatory measure, and aforementioned reverse consensus system as well as the appellate review. The action of reform is challenging, but most nations participated in the Uruguay Round agreed on the enhancement of WTO governance (Ritchie, A. C., 1936). This context also led to a distinctive preserve of WTO ethics, which cannot easily be defined in any one version of organizational ethics (Rohr, J. A., 2007). The actors and players, particularly trade experts and diplomats, both have to be nationalists to defend the trade interest of their nations, but also some unique mindset or attitudes, as well as ways of interaction for some of internationalism or idealism.

## **11.The Aspect of Technology Issues**

The technology issue in WTO has not been seriously concerned in the provision of administration or institutional competence. It otherwise mattered with the environment where WTO was exposed to address their responsibility (Rosenbloom, D. H., Kravchuk, R. S., & Clerkin, R. M., 2009). Two distinctive regimes were created to regulate the arbitrariness of member state or in other sense, untouched area of international trade. The trade of service turned attentive as a new agenda for which 1947 GATT had not a jurisdictional authority. The technological development increased the share of service trade in comparison with the trade of goods, which necessitated a regulatory framework for an open access to the domestic market and concerning the non-discrimination policy (Post, R., 2006). The political antipathy or policy differences, however, were present between the developed and developing group of nations in pursuing the global governance of service trade. We can instantly know the context since the service industry is a prime source of national income for the developed countries. A competitiveness in the service market also grossly advantages them who advocated the free competition and less regulations. Given an intense disagreement and nature of issue, the GATS failed to complete all the expected preparations, but could be incorporated as the transitory nature of agreement. The service market is not the same as that of goods, which should be individualized and involved a difficult element, such as presence of laborers or

commercial unit, international mobility and immigration, and others. These factors pushed them to hurry on the incomplete nature of GATS (General Agreement of Trade of Services) which merely includes the basic commitments in principle, but deferred the specific dealings, on the basis of “request and offer,” for a further negotiation among between the individual member states. (Miller, M. G., 1937). This implies that the service trade involves a more delicate technical issue in the legal aspect, and concession would be making up for the agreement that should be individualized to suit each national law and particularities of domestic service market. However, specific dealings have not yet been achieved until the Doha Agenda 2005, the time which was expected to complete the service trade regime. The technical issues, paradoxically, were raised how to sketch the institutional structure of GATS. The draft work of GATS heavily borrowed the idea from the structure and ways of dealings from the 1994 GATT. The service of trade involves humans and corporations as an actor, not a subject matter of international trade of goods. However, economic eyes focused on the same nature among the goods and humans, which eventually took a similar framework between the two norms. The trade lawyers and diplomats shared the same tools or technology, in legal analogy, so as to produce the GATS. The chapters of basic commitment, general exceptions and other provisions are committed for the liberalization of trade and non-discrimination policy (Brink, D., 2007; The United Nations, 1948). Other treaty, what we call TRIPs, concerned an environmental change where the international trade has been practiced. This area also involved a controversy and was pursued as surrounded by the antagonistic group of nations. The developed countries highly supported an enhanced protection of intellectual property while the developing countries stressed the nature of common heritage. So the property concept and the communal concept of utility in contrary force intervened as two competing ideas adhered by two groups (Machan, T., 2005). The issue also involves an ethics issue where the trade firms, actually remote players, and policy makers have to honor for managing a desirable global market. The practice of piracy and goods manufactured on the fake trademark had raised a concern for the fair trade ideal. Now the technology developed into a quasi-property nature deserves the legal protection that many countries have the patent laws, copyright acts, and provisions of the tariff act against the illegal goods in violation of the intellectual property and other (Machan, T., 2005). The tariff act 337 of US is one example. It is a product of great acumen exercised by WTO policy makers, who are generally diplomats and lawyers of the developed countries. I spoke of its novelty to connect the technology issue with the trade agenda. It is just simple in the legal terms that the nation individually and uniquely addresses the protection of intellectual property in civil laws. Furthermore, WIPO (World Intellectual Property Organization) had already been instituted in the international scale to administer the issue of intellectual property right. The policy makers assessed the issue more seriously to make it into a “unitary contact and one stop solution” in promotion of trade interest and enhanced level of civil protection (Waldron, J., 2004). WIPO is considered as vulnerable that the membership is open, but optional and incomprehensive on the treaty-by-treaty basis. That is not the case in WTO where almost over 150 member states now interact. The members have no option to exclude the jurisdiction of MNTAs unless otherwise specifically permitted, which is so seldom. Thus, they are practically mandatory to impose the duties and obligations on all member states in the uniform fashion. Therefore, the policy tools and network are more efficient if availing of WTO institution (Sandfort, J., Selden, S. C., & Sowa, J. E., 2008). For this reason, less law abiding member states, which do not comply with the TRIPs agreement, may be sanctioned more efficiently by the WTO dispute settlement mechanism. Also is an interesting point as the technical issue of laws that the TRIPs waived not to provide a set of substantive rules required to protect the intellectual

property. WIPO already established the treaties which lent the standard of protection, so that TRIPs just cites them to facile adapt.

## **12. Some Insights About the Nature of Reform: The Types of Organization**

Then I am driven to make a comment for the ways of approach about the governance issue of organizational reform, which purports to tip about its varying nature among the types of organization. I like to suggest three classifications covering the national, international, and for-profit organizations. I believe that these classes ensure the basic differences of organizational reform issue, which more effectively makes the contemporary governance students to infer any insights in their research work. Most arrangement for reform would be made to fit within those three basic planes, which would properly dispose our track of perspective (Rohr, J. A., 2007). The international organizations would cover in its scope GOs and NGOs, and WTO, the organization we reviewed, is one of GOs which limits this research in that context. The private enterprises are generally a for-profit organization, which narrows the pertinence of this classification in ways of excluding the non-profit organization of private nature. That is because the latter form may have many points of similarities with the public organization. Particularly, the public organization other than national government could be viewed similar to the latter over most of its functionaries, but it could well be specific in terms of their missions and ways of governance. Therefore, the constitutional court achieved in 1987 with the reformed constitution in Korea would not address all the issues of public organization, but should be properly constrained. The case of corporate governance, however, would be comprehensive to illuminate the democratic governance of corporations in Korea, and thus could be applied in more inclusive way to endeavor on the governance and democracy for private sectors (Deleon, L., & Deleon, P., 2002). Despite the limits, the rationale I chose WTO would turn clearer to expose the key elements of governance for the scholars of public administration. WTO was formed in 1995, which saw an extensive revision of 1947 GATT in its ways of governance and organizational mechanism of function. The period around 1970's and 1980's posed a serious challenge among the trade states in the world. The developed economies and rise of the developing countries had agreed on new mode of governance which compelled them to recourse a very idealistic form of ITO envisaged long since 1947. Many challenging issues including new protectionism, shift of the international trade on sectors, protection of the intellectual property, unilateralism, less competence of organization, and others provoked to revolutionize for new WTO governance. It is now assessed as the most enhanced form of international organization. Let me illustrate one example about the reform of constitutional court. The constitutional court in Korea would be a gift to meditate on the democratic governance since it recreated a traditional dynamics of civilian hegemony in the contemporary times. It saves us by showing a compressed path of evolution with the institutionalization of civic virtue system. As the rule of law and protection of minority from the potential evils of majority tyranny require, the judicial role, in any civilized form, is largely demanding to public policy making and administration (Bingham T., 2011). A 1987's shift of prevailing powers in Korea enabled to prosper the constitutional culture and the rule of scientific case laws on the constitution. That implies so significantly for the republic of Korea which brought a momentum on such lesson, as in *Marbury v. Madison*, and the paradigm of democratic governance (March J.G., 1995). We notice an important point in memoir about this transformation where Korea had upgraded from the

swerving of state-led developmental paradigm. They began to accommodate the system of democratic governance and civic virtue. We, therefore, would be distinctive if Korea could has the system of rule of law about as-later-as one or two centuries after its settlement in the US and Europe (Bingham T., 2011). It is generally common for the new independent nations emancipated from the imperial rule. They chose to import the western form of democracy and governance, and the ways of capital accumulation and institutional development are, at some level, artificial or in the shortcut ways by interaction with the grant or international capital (Gunn, C., 2000). This led us to experience a *déjà vu* of civil narratives, but in some particularized context. Provided if few cases were raised as a constitutional issue in the actual court proceedings over 40 years from the Korean independence, the context of 1987 constitution court was revolutionary in nature as producing a tack of case laws in just two decades. The rule of law on constitutional review sharply advanced (Bingham T., 2011; The United Nations, 1948). Hence, it can be a unique case we can learn much about the reform of public governance in the national context. However, the context or nature of organizational reform has aspects of differences while sharing, of course, some. First, the reform often is pursued in the tide of democratic progress in the contemporary undertaking, which guides it in dominant fashion. That could be similar to share notwithstanding the types of organization. The constitutional court in Korea was pursued in the 1980's turn of national politics in Korea, and GATT/WTO reform also reflected the new promise on a democratic spirit of multilateralism. Second, both reform triggered the intensification of judicial role to administer the public agenda, which ensured a predictability and stability in public administration. This implies that the judicial tools apparently provide effectiveness in the context of democratic governance over the types of organization. For example, various types of disciplinary board tend to be extensive although the extent or intensity of judicial body within the organization may differ significantly. Third, the organizational reform in the national context is a product of interchange from the group of countries, but the international organization is generally situated in solitude. If the organization responds at the global extent of governance, this distinction more starkly increases. Then, the US and EU lessons would not be pertinent in the case of WTO reform while the interplay comes in dominant way for that of the constitutional court in Korea. Fourth, there could we find a scope of differences about the reform element varying with the types of organization, which encompasses the actors or players, the extent of rigidities about the laws and rules, ethics, the nature of leadership to transform and govern, policy resources and networks. I have not made a point in principled ways, rather delivered my focus on the WTO reform itself. That would be left for further research in the future. But the point of emphasis is that there are a number of works on the organizational reform issue, but their dealings largely neglect the types of organization nor entailed any insights or comparison about the factors intrinsic in the types of organizations.

As above described, my intention on this paper involves a large scale, but typical case which enable the public policy makers and leaders to share the essentials of governance for WTO, one of most efficient international organizations (Rohr, J. A., 2007). The typology can be allowed given its distinctive and dimensional differences among the types, which could be comprehensive in principle and basic tenets, but with minor variations with the same type of organization. For example, IMF or the organization of international maritime tribunal should differ in the scope of practical governance issues, but I suppose that they can share some essentials if they commonly are international organizations. This logic and viewpoints could also apply to the national context of organizations between the Japanese supreme court and Korean constitutional court. For the corporate governance, there are a scope of various



organizations, but the private and for-profit nature of issue could increase deriving the common elements concerning the policy issues, variations, and their relationships. Their context or nature of organizational reform, as expected, should be predominantly distinctive from the former two forms.

The case I discussed has the same policy issues involving the reform of their organization to the demand of environment. As they differ in terms of the organizational intrinsic, we need to require a distinct set of variables epitomized in practices and theory, which correspond to the circumstances, players and their interaction or network, the organizational history, the field of specialization and so. Through the course of argument, we also find there is some extent of coherent relationship among the variables. Finally, I intend to elucidate insights for the policy makers and students to have basic ideas for the desired form of governance as sharing or varying with the typology of organizations.

### **13. A Concluding Remark: the Policy Reform of Ongoing Character**

WTO can well be considered as primate, efficient, most active and impacting among any other standing international organization. Its current form of management is surely a product of shrewd handlings and institutional design whose reform was pursued in two aspects of basic concern: public administration and democratic governance (March J.G., 1995). The organization now faces with an increasing aspect of reform and institutional adaptation to new needs or demands. We often call them a new WTO agenda which cover a sensitive global economic issue, such as GR, BR, CR, TR. So we can see its ongoing character in terms of its public role and responsibility whose aspect often tends to profile from the national context (Rosenbloom, D. H., Kravchuk, R. S., & Clerkin, R. M., 2009). That is principally due to the creative nature of international dimension, which should be “cross-over form of governance” and as progressively engrossing into our public lives. In the context of progress, OECD and NGOs are a principal factor which offers the policy network to interact in shaping their agenda or institutional reform. OECD may offer a commitment of basic policy orientation which can be realized in the practical consequence by WTO. It is likely the presidency or sovereign, in analogy, but practically, of that nature to guide, and often delegates, not formally at best, its administration to WTO. However, that is never straightforward if OECD is not led by one president, but merely a consultative convention of over 30 developed countries. NGOs are also distinctive if WTO needs to be reformed to create an official power for NGOs. If that became a reality, NGOs are no longer a pressure group which should be distinct from the national governance (March J.G., 1995). It can become a powerful policy tool to voice the interest of global public.

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## **Chapter XIV. Public Policy and Social Change**

### **1. Public Policy and Social Change**

#### **1-1. An E-Governance Policy for the Social Change**

Given the ultimatum of policy addressee from the anthropology of public policy, and also coupled with the general understanding of public policy, we may explore the element of technology in the context of contemporary governance. Now the technology plays as the kind of infrastructure and in practical primacy over the vast of modern branches of public administration. E-government and e-rulemaking are the concepts to describe the current practices of democratic governance. Then we may be inquired about the nature of technology for the modern administrators (Wedel, J. R., Shore, C., Feldman, G., & Lathrop, S., 2005). Besides many attributes, I like to draw on the limits and relevance for this discussion purpose. That is a mode of governance, a kind of networks, and circumstances to exploit for realizing the success of policy goals. That should be the device like a pen, or official letters and gazette or dockets in earlier decades to inform, communicate and interact. In this aspect, the technology actually has brought a messy facility and ease, and incurs aspect of the adaptation needs to the traditional concept of legitimacy. The attribute of expediency or facility for a gross reach and communication often attracts the policy makers to rely on the ways that the technology creates and provides (West, D., 2007). As the communication is a dominant portion of our daily subsistence, the information technology, now omnipresent and on easy access, critically impacts on the society and humans. However, its impression, in the first, comes in the context of mere civility and promotion of private sphere reified in hail to universalize. So we call it a millennium revolution on its significance. That is true if we have a moment of reflection about the daily chores and ways of interact. Any simple calculation about our time spent daily can help us to see its extent of impact. That must, however, be recast provided that we advance to employ the mode of governance. That is, of course, because the public dimension has its distinctive preserve to uphold (Anstead, N., 2008). When we consider the information technology over the decades, some stage in technical evolution can be charted. The first stage offered a simple internet page, and later a network was provided in portal as Yahoo, Google, and others. The third stage now dispenses the social network service like Facebook, Researchgate, and some others. In its vein, the information technology brought us a “cyber space” to communicate and interact. Now over ten thousands web sites are being created everyday in the world, and the videos became available in the internet service like Youtube.

#### **1-2. Its Legitimacy as an Instrument for Social Change**

Let us assume if we are a public administrator to plan and implement a social change. There are points of deliberation to consider its legitimacy.

First, the availability of IT and its outlet can always be ensured equally? Internationally, the rate of internet users shows dramatic differences across the countries. How do we consider it fair and equal by depriving the equal access of policy making and its implementation. You may be a WHO or UN officials, and they are disposed in some high tone of faith to respect the universal declaration of human rights. The debate and participation

are a crucial point which the deliberative democracy, in any contemporary understanding, is based on. The deprived national may argue on the substantive justice, but their interests or concern could mostly be blocked from the lower rate of equal participation. Of course, the international governance takes a differing version about the democratic representation, but we are generally not discouraged to say a world democracy, world congress, and world citizenship, and evangelical nature of NGOs. This aspect also pertains to the legitimacy concern involving the national democracy, but in any less remarked context.

Second, the participatory scheme of modern democracy may be distorted in an interesting fashion. According to the researches, we can verify a trend about the extent of engagement in the public forum, i.e., debate and exchange of ideas and suggestions. That is, of course, because the cyber space is more productive to discuss and interact about the diverse perspectives. It generally reveals the nature of political disinterest of common people which the modern politics often faced with. For example, the youths may be considered as one of groups to be less concerned about the political affairs (Maguire, M., 2008). Interesting is the result that the industry is a prime group of high rate response to participate and express their opinion. This implies that the active players to produce and have a material interests are more positive than the consumers. Other findings also guide us that the status of each policy item can bring a different outcome between the industry and normal citizenry. The “high salience policies” attracted more a participation rate from the normal citizenry other than industry (Shafie, D., 2008). This research outcome gave a lesson concerning the democratic and also efficient administration. The political disinterest is one way to express an individual’s disposition about the political affairs, hence, generally neutral on the critical legitimacy question. However, the enhanced mobilization of democratic participation is generally desirable. For example, Korea has, over the decades, showed a lower rate of ballot which undermined the face of democratic representation. Typically, the election of congressmen comes more disinterested than that of presidency. Basically, it has strengths, for example, the web log forum in Oshkosh or others, to promote an idealistic forum of public issues and easy mobilization of concerned people, but simultaneously poses a challenge about its artificial, but unfiltered nature from the face-to-face interplay (Maguire, M., 2008). It likely approaches between the “oral and written” in the study context, or “mind and physics” in terms of philosophy. We can receive a better context if the internet conference allows a face-to-face contact in vision. I also see it not bad that the research article was read by the voice actors to bring an approximate inculcation in more friendly manner. I consider it enhance a virtual feels to shingle the photo ID in Facebook and other social network. For the political candidates on election and public administrators on his policy item, the kind of improvements would enable “one stone and two birds” by those productive spaces for information and sharing, as well as the virtual interplay likened to physics.

Third, we can derive other points about legitimacy or in the lesser context of democratic ways of governance. Let me say some. Humans are generally inherited to favor the “decency and propriety” given the absence of commercial interests (Wedel, J. R., Shore, C., Feldman, G., & Lathrop, S., 2005). A public dimension, therefore, may be viewed dominantly in this light. In the IT era policy administrators, this concept seems to be a pivotal point of assessment to seek their legitimacy or integrity of government. They are responsible to monitor and feedback to experiment the new mode of e-governance. We trusted the power to govern and agreed on the social contract, in the premise, but in the least, that it ensures the life, liberty, and property interest of citizens. In some more enhanced understandings, we expect an ethics, decency, integrity of government, and propriety to any immutable elements of human. Now the technology is forcibly given actually as the French economist, Say,

remarked “Supply itself creates a demand.” I am never a civilization critique, and belittle to assess the nature of IT product. A most critical question, however, seems how to ensure a decency and propriety. That might be incalculable nor hardly defined in any qualitative and quantitative terms, but obviously challenges the social change agent.

## **2. The Technological Influences on Public Policy**

### **2-1. National Elections in Korea**

The technical influences on public policy are tremendous within the vast area of public policy. One area of my concern involves the policy of public election. We have learnt of the Oshkosh case in the United States, and Korea has also been influenced to shape a new mode of public election in the limited context (Maguire, M., 2008). The national elections, typically presidential, congressional, and local, are reluctant to advance for its less weight, risks, and usual perception or context of diminished credibility, informality, personal strands other than interface, less imperiousness and autonomous, and for other reasons. These aspects of technology tend to come less imperatively in the case of intra-party election that the political parties of Korea, since around new millennium, adopted an mixed nature of the candidacy selection and election of the party officials (Anstead, N., 2008). The Aligned Democratic Party of Korea, in the previous elections, incorporated a mobile survey of party members to determine the candidates of presidential and congressional election. The outcome of survey explained fifty percents of final score to be elected for candidacy, and the rest half was contributed by the vote outcome in ballot where the gubernational convention took place.

One interesting event actually occurred in the previous election of congress involving a minority party of leftists in Korea. Chung-hee Lee, a party member of the Aligned Progressives of Korea, had long served a party head, who was a notable figure from his serious exposure of northern affiliation in the tenet and spiritual tones. She is classed as one of most radical leftist and attracted a public attention both in support and in an acid criticism from the conservatives of Korea. Her party chose to rely on the mobile survey for the candidacy of congressional election (Anstead, N. 2008).. It actually is less a successful party which produced only several of congressmen over the last elections. However, for the selected in the privileged quota, the nature of election is so simple and easy to win the seat given that the Korean election law adopted a proportional method to assign a portion symbiotic with the earned votes of party at its totality. To say, if the hopeful gained a vote enabling him to be placed at the first numbers in order for the proportionality method, he can be virtually ensured to be elected as a congressman. She mobilized many supporters from the mobile survey and successfully was placed at the priority number in order, which guaranteed her a virtual victory if the election was progressed. Her chance to become a congressman was certain, but her unethical manipulation of mobile vote was publicly disclosed as subject to an immense public criticism (Xenos, M., & Kyurim, K., 2008). She applied tactically ways of election violation by falsification, impermissible ways of mobilization, bribery, and others.

The mobile space was so vulnerable to maintain a legality and integrity of democratic election. The consequence was serious to push her to resign from the head of party and to renounce her candidacy, and contributed to a high atmosphere of public summons and reprimand fundamentally, and even through their party goals and activities. The incident stirred the public, but it was interesting that the public focus mainly concerned



about the political profile of her and her party. The comparative weaknesses of mobile election were not seriously questioned as a matter of election policy, but shared in a rather lower tone and temporarily. Nowadays, there is no intense concern or public debate to deride the less creditable nature of mobile survey, as the progressive voices about the active experiment of IT technology in the public election being explored instead (Maguire, M., 2008).

## **2-2. The E-government Concept and Change of Public Administration.**

Unlike the election, the atmosphere to transform for the more active form of e-government can be found in Korea. If the political election takes it a kind of pushpin to muddle around to explore its fitness, other vast areas of public administration actually rely on the new technology to serve their goals (West, D., 2007). This implies that the public administration includes numerous features distinguishable among its variables. I generally consider the policy area as rather resilient that the human or political elements profile more powerfully as in the case of public election. In comparison, a vast of policy process in the mechanical implementation and ready hand public service can be more accommodated into a uniform fashion of the on-line or cyber dealings of administration. Thus, the mission toward the e-government may enable a scope of policy areas to transform (West, D., 2007). Recently, I have experienced much convenience to renew my attorney license in the New York Court of Appeals. Unlike previously, I did not need to fill in the renewal forms in hand, neither to prepare an envelope, nor travel to the post office. I need not be patient if it would arrive safely, but the PC can grin to show the signal of completion on the desk.

These areas are not exactly a kind of public policy, but we also can identify a progress of public universities which deliver on-line master programs and degrees. Their function is not purely commercial or private, but often is assumed in the mixed nature from the public governance. So their admission process may be debated in the court involving the constitutional issue of equal freedom. Now almost all the public universities deliver their transcript service via electronic ways. The court web pages in Korea, for example, show the remarkable ways of new dealings about the e-interchange of court documents and briefs prepared by the attorney.

All the courses of public planning and implementation involving e-governance, it is necessary not to lose our eyesight from the democracy and legitimacy (Shafie, D., 2008). As we know, there an antedated question not definitely resolved, for example, whether the indigent person may claim a constitutional protection of equal access to the court if the court fee is high and hence unaffordable. The same controversy may arise even in the era of e-government. If the fee to access, not limited to the economic sense though, is high, are we fair and equal? Or is it fair among the citizens who have a PC and have not? Is it ethical and effective to present a high level of English for the illiteracies or undereducated groups? Are we scrupulous to ensure a right to dissent about our web page expressions?

## **2-3. Some Reflections**

The etymology of policy can lead us to reap some truths of policy or public policy. In

the medieval English, it is seen to originate from the words, “police” or “polish” which connotes in the combined concept of “governing and managing.” How could we police others or community? Then it supposes some of political sagacity, prudence, or skill in the execution of statecraft. Thus we often would be susceptible about many words in common, which includes the community, society, actors, players, individuals, locality, network, tools and so (Wedel, J. R., Shore, C., Feldman, G., & Lathrop, S., 2005). We can then be left saliently with the dual aspect between “good and bad.” The words, diplomacy, prudence, and expediency may come to vindicate, but also, in a negative reaction, may embrace shrewdness, cunning, craftiness or dissimulation. These appear to be discursive, but may gainsay against the conventional practice of track administrators. We can share a bit earnestly that the policy stranded from the community, but eventually triggered to effect on each individual (Wedel, J. R., Shore, C., Feldman, G., & Lathrop, S., 2005). Given this light, the final receiver of public policy may compose the fate of policy and its administration. From this standpoint, it never goes too far that the policy makers and administration may seriously revisit the outlet of policy effect, as pressured in the words, asylum seekers, self-employed business consultants, contingent workers, layoffs and others (J. R., Shore, C., Feldman, G., & Lathrop, S. (2005). This is touching even if we neglect not to borrow the ideas and suggestions from the anthropology of public policy. For the e-governance in rapid transformation, this nature of public policy, as intersected with the humanity and even anthropological aspect, steps into any more intensified point of reference or guiding theme.



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## A Glossary of Socratic Conversation

Hi. Ron. I suppose that there perhaps would be no cases without competing interest. We even see the context of competing interest in personal sphere. We may linger around what restaurant we will use today for lunch. This restaurant offers a moderately priced food, but are not suitable for the group in company since its space is limited or so. Self-choice or self rule is usual or constant on our daily routine decision making. Our sensibility of intoxication seems to be caused from an usual apprehension of pure theory or idealistic form of tenet and principle. For example, Adam Smith's concept of liberal market is absolute and powerful. Ricardo's proposition on the division of international labor also comes within a similar context. As a counter thesis, we experience an economy of protectionism in German context. Pure theory v. political economy may lead us easier on the basics. As for the policy makers, I suppose that pure theory can allow us minded and intelligible. But we need to note that, for a clue and beginning purpose, we firstly head on the dynamism of our society, and especially for the sector of our job responsibility. Then, we would be required to identify the competing interests of our neighborhood before any other task. In due course, we utilize the resources in respectful adherence with the command of democratic governance, interact with the policy network compatible with standing laws and practices, and to find a better solution.

Montolio, S : I've worked for the New York City Police Department for many years upon my retirement and just to inform you, the New York City Police Department (N.Y.C.PD) is one of the largest police departments in the country with approximately 40,000 sworn police officers. The department has the most diverse neighborhoods to patrol daily. However, police officers violates the civil liberties of minorities due race. For example, right after 911 police officers began to harass everyone that resembles or was a Muslim. Take a look at this article, <http://www.theatlantic.com/politics/archive/2013/03/the-horrifying-effects-of-nypd-ethnic-profiling-on-innocent-muslim-americans/274434/> Democracy does not exist in the N.Y.C. PD; the only democracy that exists is the Blue wall of silence because a group of officers get together and agreed to never snitch on a brother. This group of officers always chooses the one to represent them in case of any problem. I believe that the force we be more effective if they would allow a civilian group of people to vote on the on what type of patrol is needed, place, time, and supervisors to actually supervise that the work is done based on the need of the neighborhoods. Once the public becomes involved the police department would be more effective on cleaning neighborhoods and combating crimes. As I stated earlier, the highest percentage of diversity exist in New York City, and the N.Y.C.PD does not know how to handle it. By being a little more democratic and allowing the public to choose at least the commander of every precinct, it will build a good working relationship between residents and the police. I honestly hope, but I know democracy in contemporary work place would work or last because every work place has a different set of rules, regulations, and code of conducts. In addition, many organizations or governmental agency allows the public to be involved. Access is not given to the public by saying that there are classified documents, etc. I like the term workplace democracy. If the employees do own the company then they do have a reasonable expectation to have input into how the company is run. If they do not have a stake in the company then they should not have a democratic voice in the running of the company. Democracy belongs on the side of the ones who invest the money and pay the bills. The ones that receive the payments are the servants of those that pay. Our republic is an example of this. The taxpayer provides the paycheck to the representatives who perform the work producing the widgets (law making) in Washington representing the will of the people; therefore, the taxpayer participates in the democracy to elect the representatives. That same holds true for companies. (Foley) "Furthermore, since employees have freely entered into an employment contract that trades their labour for money, and can withdraw their labour anytime, they have no right to be involved in decisions regarding how their labour is to be used." The stockholders of the company participate in the corporate democracy, by electing their board of directors, who hires the workers. The worker represents the board and stockholders by creating and producing the widgets, or service the company sells. Democracy is on the side of the ones risking their money paying the bills, not on the side of those receiving the money. Working for Western Electric, we were consistently under barrage to do more production for the company. There was no democratization of this workplace, nor should there have been. The democracy belonged with those that risked their capital and those that made the strategic plans for the company. The closest we had was a suggestion system, which is not democracy. We as employees did enter willfully into an agreement of, our time for money, we were free to leave at anytime we wished, and whether or not we felt trapped and were afraid to leave was irrelevant.(Gunn) "...cooperatives in Spain, must compete in markets against firms that do not share their commitments." Adding government regulation to bring democracy into the workplace of a private corporation should be resisted and stopped whenever it is tried. Spain with an unemployment rate of 27% is a perfect example of why not to democratize a company's workplace. (Fontes)

"The number of unemployed persons in Spain increased by 237 thousand and stands at 6.20 million." Democracy in the workplace is wrong. Democracy in government is right.

From Kiyoungh : Hi. Sergio. Touching on the extremely of 9.11 tragedy in the context of directly responsible workplace, NY PD. It had shocked the American people and also global public. How could the terrorist attack in such an inconceivable ways? I like to know if NY PD practices still continue on tough stance or any other emergency readiness. Perhaps would it be usual to check up in the public street, from my recent experience on travel visit. How do they cooperate with FBI or homeland security department? We once had a strong police under the control of central executive office to serve their need for public peace. Around the 1980's, demonstrations and civil rallies were frequented to oppose the semi-militaristic government. But the society in Korea turned to improve, and virtually no police oppressions are present now. We also reformed to appoint the highest commission of national police composed by criminal experts and other civilian representatives although they are not democratically elected. The practice is little different from the public education authority since they are chosen by election. Your raised an important viewpoints about workplace democracy, and must be one of problems which the policy students stick on in concerns.

From Kiyoungh: Hi. John. Your point leads us to have a straightforward of ideas about the economic viewpoint. I basically agree that the property interests are a prime motive for economic actors. So investment and deregulation to facilitate the business must come in urgent priority for many public leaders. I suppose then that you may have preferred Mitt Romney in the last election who pushed forward a paradigm of small government. How do you have any ideas about less investment, which, as far as I know, serves a main reason for long years of stalemate or aggravation of the world economy. They may be honest on the business rationale, but do you feel absolutely uninterested or insensible if the employees are deceived in some of political injustice concepts. How do you see the representative bureaucracy or compulsory quota of female council in Europe? Property interests and merit based conception should prevail over all the way through the logics of workplace democracy? Thank you for sharing.

From Ron: So....you e-mates keep talkin' about democracy despite--gasp!--what I revealed about the Fed. Papers and the political process. There's reluctance to call the system by its right name--plutocracy. Hmmmmmm.....Now take a look at where we spend most of our lives--the workplace. Is your workplace run democratically or is there a boss? And what of those great protections afforded the Bill of Rights? Do you feel empowered to express yourself at work? Despite my encouragement, I suspect many students are reluctant to challenge my views--and God knows, some of them likely need to be challenged, right?

From Kiyoungh: Hi. Dr. Ron. I might have no way but to say it is virtually an oxymoron. Your point is practically right if some plutocracy is a prime force for the creation of new Republic, US. And it constitutes a basis for the policy students, who center on their ways to advance. Actually governance and leadership allow us more concepts and meanings in the oceans of public issues unattended and still awaiting for better solutions. You are inquisitive if the workers are empowered to express their idea freely at the same extent of citizen, say, in their public sphere of lives. As peers responded, NGOs are of close nature to the citizenry in their public life. A most available specimen would perhaps be found, however, in labor unions for the context of workplace democracy. Traditionally, such strong powers of property class are satiated as evil by applying the "divide and rule" policy for their workers. The labor union even may be weaker to properly address the interest of union members, and worse, they may betray their peers as some of governing body. Generally I do not see that the workers in their workplace are privileged with the same or similar extent of freedom on their expression. In terms of governance, we, therefore, are required to define the nature of organization or workplace if to yield a proper ascription about the workplace democracy. NGOs and private organizations are not the same in this purview. A private organization has specific goals as self limited delineated in their articles or bylaws. It should be limited, yet not to be comprehensive to forge the ideals of general public lives. They are obliged as bound by their promise on their employment contract, which is absent in their public life. The tendency of court is interesting that they consider some of workplace or social arrangement are semi-public and apply the viewpoint of public nature. On the other hand, the doctrine of commercial speech allows the government more leeway for heavy regulation on the freedom of speech. Thus, in the case of private, particularly for-profit organizations, the corporations as well as workers have less privileges on the free speech and expression. An economic or business character of dimension works to make the issues differ. One problem lying in that right attribution of plutocracy, in my view, would be some of "corporatism state" which possibly could dispense away with the classic notion of democratic virtue. That might lead to some of tension as of its nature which might be related with the second world era. We, in most majority, may not prefer any public policy of war merely because it composes the nature

of effectiveness, efficiency, or in some cases, perhaps, strategy concepts. We are called to be heeded of the American plutocracy and corporatism state, and especially of how they can be matched or departed. Can we properly find if the yardstick of democracy plays to assess?

From Montolio, S: Public policy is defined as “The basic policy or set of policies forming the foundation of public laws, especially such policy not yet formally enunciated” (freedictionary.com, 2013). Technology has change the way government, private and public agencies operate their businesses. Technology has been the cause for much unemployment on our society. Even though, technology is considered part of the new world, it has not been beneficial to employees because computerized machinery has taken over the private, public companies, and governmental agencies. Technology has created a huge impact on the job availability. Due to the new era of technology, many have stayed with employment because they have been replaced with computerized cash registered, ATM’s, E-Z Pass on the bridge and tunnel and even recorded voice operators when calling banks, credit card companies, etc. for business purpose this technology has been great because they can advertise as a business involved in innovation, creating rapid services with less wait.

From Kiyoun: Hi! Sergio. I was felt that the public policy eventually serves a formation of public laws, and that it generally profiles more strongly when not yet formally enunciated. It seems great words to situate the practical aspect of public policy. Also added comment would I like to make is that the positive state in this contemporary ages are provisional, and the public laws may have a vacuum or ambiguities to supplement with its wisdom. Thus, along with the legitimacy concern, the public policy area likely undertakes a vast of leeway which should be strategic, effective, and efficient, if out of reach from the hard laws. In the international dimension, the context comes in multiple ways where the nature and scope of norms are more varied. I also appreciate your concern between the economy and e-technology. That is one point which is powerful, so that the job posts could be reduced. Another peer's view is also persuasive if other sorts of jobs could substitute in this e-times. In the e-government transformation, I suppose that the factor should play as a variance given that the government is actually a largest employer in the society.

From Bronia: Wikipedia defines public policy in two ways. First, in a more formal way as, “Public policy is the principled guide to action taken by the administrative executive branches of the state with regard to a class of issues in a manner consistent with law and institutional customs. In general, the foundation is the pertinent national and substantial constitutional law and implementing legislation such as the US Federal code. Further substrates include both judicial interpretations and regulations which are generally authorized by legislation”. In basic terms per Wikipedia, public policy is described as, “Courses of action, regulatory measures, laws, and funding priorities concerning a given topic promulgated by a governmental entity or its representatives.” I believe that public policy is the basic everyday understanding of rules, regulation, law, policy, etc..... that people in society live by. Currently, I am my department’s lead on human trafficking. As a result, when there are national policies and procedures that have been recently issued for public comment. It is my role to ensure that I reach out to communities to make citizen aware that there is a public comment period for human trafficking policy and subsequently direct them to where their comments can be made. With the national policy on human trafficking, there is a website that manages the comments, tracks any notes of agreement or support to current comments, and also tracks disagreements to current comments. This is helpful in ensuring digital/electronic tracking, aids in soliciting public comments by the public being able to support a position through giving the post a “like” or “dislike”, and enabling the public to support comments by being able to review all comments received. The last point is quick helpful as traditionally comments are published a much later date.

From Kiyoun: Hi! Bronia. You are responsible to address a keen issue of human trafficking. Then perhaps an instant network to cooperate or respond to the contraband team or illegal drug bureau? Your last comment seems echoing to benefit from e-technology. An earlier identification of public views would bring an assurance for the regulators or policy administrators actually. As John illustrated, human trafficking involves a deprived group of people who often are some poverty class and have less means to subsidize. How do you class any victims or conspirators if any? Who has the authority to class and render a final disposition. Does your department dispense away any post-remedies to improve or rehabilitate. I suppose that an e-network with the government of illegally migrating nation could increase an efficiency. Great to have the practical context of e-tools!

**From:** Carla Wren

**Date:** Thursday, May 23, 2013 10:40:36

The governance that exists with public policy can be very complex. However, with the advancement of technology, it has proved to have had a significant impact on our daily lives. With the influx of social media, information is more readily available and easily able to disseminate the information with the click of a button or swipe of the finger across the screen of your I-Pad.

Technology today has vastly improved the way we are able to communicate with one another and even from across the world. The advancement of technology is making it realistic for school age children in kindergarten to have laptops instead of having stories read to them. This is an indication of how public policy is in effect. Next to families, schools are the institutions most responsible for instilling in children the knowledge and skills believed to lead to productive lives and cultural continuity. Schools play a critical role in ensuring equal opportunity for less-advantaged children by providing access to a wide range of enriching experiences, including exposure to computer technology.

Also, technology has made it easy for citizens to take care of Online Banking, Secretary of State and Department of Motor Vehicles needs from the comfort and privacy of their own homes. In addition, it allows people that are dealing with disabilities, physically challenged or young mother with babies at home to take care of any governmental needs and concerns from home. Currently, the Department of Human Services allows and individual the opportunity to apply for benefits online instead of coming into the office and waiting to apply for benefits. This methods allows for the Department of Human Services to work smarter not harder and keep citizens happy as well.

From Kiyong: Hi! Carla. I agree with you, and am particularly exciting about your comment that the children benefit from an earlier exposure to the internet education or other context of e-technology. One of human elements is that he or she uses a tools as distinct from the animals. I also experience many occasions that the friends of my earlier years, who were active with the updated tools, were prone to achieve more social success. It seems that it also impacts to develop their brain to be prodigious or productive. That might be corroborated from any scientific findings, but possibly incidental with some negative consequences? We generally analyze the factors of e-technology in the political or social terms. I suppose that the psychological or biological aspect of e-technology seems to be investigated when we pursue the paradigm of e-governance.

From : Dr. Ron

April 25, 2013

The Founders' signature document, *The Federalist Papers*, indicates that the Founders despised two things: monarchy and democracy. So why all this talk of democracy?

In any case:

\*Is it possible to determine what the Founders intended by the Second Amendment?

\*Even if it is, should we forever be governed by the sensibilities of these 18th century men? I suspect that many of them would be taken aback by the thought that they would be venerated and that their sensibilities should prevail for ever more.

\*Should we look forward or backward--admittedly, a rhetorical question.

YOUR THOUGHTS?

From Kiyong: Dr. Ron. If I were in their times, I would be gone in the same passion about monarchy and democracy. I also suppose that a knowledgeable person tends to less prefer within that type of interplay. They plainly detest if the monarchy controls everything. The constitutional ban on prior restraint might also be shed in that light. I exchanged thoughts with John about the second amendment. It is less probable if the concept of rebellion or regicide bears some connection with the right to bear arms. In any case, the monarchy is generally not so good. Democracy seems worst for an intelligible being if the substance is amorphous, but comes in absolute way. We once had characterized the nature of monarchy in the purview of divinity analogous to



religious beliefs, but what ground is there, if any, to democracy if to make a captive of persons or policy students? For the policy students, the paradigm may be more attractive if we are gone with the "medieval republic oligarchy" as attributed to the British judiciary. They are a primer of public policy, engineer to lead the institutions or branches, and have to make a strategic decision of public policy. But I do not like to oppose the constitutional oath occasionally imposed on the public officers since that may be some of center to recourse. The problem, as illustrated in your question, seems that the constitution is rather classic, and arrogant to forge its intent like the founders of "private board" other than "public concession."

From Rosemary: Dr. Hirschbein and Class, We should be looking forward in our government and not backwards. As a country we should learn from the past and welcome new changes into our system. However this is not the case. "According to Cornell Law, "under this "individual right theory," the United States Constitution restricts legislative bodies from prohibiting firearm possession, or at the very least, the Amendment renders prohibitory and restrictive regulation presumptively unconstitutional. On the other hand, some scholars point to the prefatory language "a well regulated Militia" to argue that the Framers intended only to restrict Congress from legislating away a state's right to self-defense. Scholars have come to call this theory "the collective rights theory." A collective rights theory of the Second Amendment asserts that citizens do not have an individual right to possess guns and that local, state, and federal legislative bodies therefore possess the authority to regulate firearms without implicating a constitutional right." The government continues to revisit policies, which were implemented several years ago to for our society today.

Rosemary

From Kiyong: Hi. Rosemary. Thank you for your informative discussion. Some notion of diplomacy among the states might be a factor, which could be greater in shaping a federal constitution. A contention between the large and small states around the days of foundation may pertain to the context. They might not be completely settled about the republican form of government, nor their conception of liberal virtues or public welfare. Some state might get radical to restore the monarchy or threaten other states. This concern may leave them in the term "well organized militia" or "the individual right to bear the firearms." Their experience about the tyranny could only be referred to the kind of rebellion or regicide as Locke saw. The only way to preserve this ideology would perhaps be to ensure the second amendment right, and that certainly had been the course of action they progressed through the years of independence from King George III. In prescribing this amendment, they might be proud of their victory. In any case, their conception seems to go a bit uncertain if it is an individual right which is not definitely incompatible though. We usually have ideas that the right to rebel is some of collective nature, for example, civilian disobedience or other kindred. Can we legitimately embrace that an individual can rebel if he sees some authority a type of tyranny. Interestingly, Koreans have an experience that President Park was assassinated in 1979, but the assassinator, Jae-kyu Kim, pleaded his legitimacy on the theory of civil disobedience or right to rebel against tyranny. He was a high ranked presidential aid and close friend of Park who is a father of current president in Korea. He used a pistol to shoot President Park. In the event, the supreme court of Korea rejected his argument, and Korean people have seen it a kind of coup d'état as occasioned in the feudal regime of the western and oriental history. How can we distinguish the coup d'état against well organized militia? The island could be a better place to create a strong liberty concept, and sea people usually are viewed fierce in Korea. We list the marine corps toughest and most brave among many divisions of military. Given the nature of England, would these be a factor to procure the individual right to guns in the imaginable circumstances of duress or fear from the potential of new warrior states. If it surely goes to any collective right frame, then it can be understandable. It is because that the context approximates the international law on war if the state is some extent of sovereignty. Eventually, I agree with you and other classmates since I am dubious if the circumstances and public sense are not the same to those of over 200 years ago. However, I am not sure if John could agree, particularly on the second amendment issue.

From Carla: It is ironic that in the modern world democracy as imperfect as it is in the political realm, it seldom extends to the workplace. As a matter of fact, people in the workplace are required to "check their voices at the door". According to Foley & Polanyi (2006), "most Americans feel powerless to influence their situation at work, and calls for workplace democratization have grown" (184). For example, early in my career, I worked for an Accounting firm where democracy did not exist. It was a rigid environment where you had to follow the rules and do what you were told. Do not ask questions or even think about making a suggestion. If you went against the grain, you would be viewed at "combative" or resisting established guidelines. This type of environment did not provide for any cohesiveness in the group and only fostered a culture of disgruntled and unhappy employees. The workers did not feel as though they were appreciated and our voices went unheard.

The organization would have been more effective if there were more democracy that existed with the work environment. This would have created a dynamic workplace where people felt as though their opinion matter and they were a part of the organization. I feel as though democracy is sustainable in the contemporary workplace because it creates a place where people do not mind coming to and putting in work to accomplish assigned tasks and responsibilities.

From Kiyoun: Hi. Carla. Your description is really echoing if the workplace is the space for us to live most of lives as Dr. Ron saw. I also have the same view that the workplace is highly important to us. However, it is in our reality even in the governance of nation or state that the plutocracy was actually a motivating force to engineer the situation. If it goes to any modern private organization, the extent should be serious on strategy, merit-based, competitiveness, and so. As you get to the point, they could grow, both of firms and employees, on life time learning and sharing. Workplace democracy, in some dimension, may come with the leadership and ollwership, and thus some of justice or democracy concept may apply?

From Jacquesha: Most Social Security disability claims are initially processed through a network of local Social Security Administration (SSA) field offices and State agencies (usually called Disability Determination Services or DDSs). Subsequent appeals of unfavorable determinations may be decided in a DDS or by an administrative law judge in SSA's Office of Disability Adjudication and Review. Within the Disability Determination Services (DDS) there is no democracy. Prior to the (DDS) agency receiving a new director two years ago the agency was divided in units. Various units processed various claims such as HIV, military casualty, children, appeals, quick determinations, homeless and reconsiderations. When the new director took over she decided that all units would become mega units and each person in every unit would process every type of claim. No input was received from the employees concerning the change and they were just implemented. To this date the changes are a complete failure and the backlog of claims continues. Due to specific complaints and other mishaps by the former director she finally drew attention to herself and was eventually terminated on May 1st, 2013 and her job is open and posted. I do believe that input from those that actually process claims would be very beneficial. Employees actually in the claims process knows what works for them and what does not.

From Kiyoun : Hi. Jacquesha. A floor level experience and views or opinions from the workers in practical charge should not be disregarded. I agree with you. Employers often like to draw a uniform network for reasons, particularly savings of overhead cost or work efficiency. That kind of work restructuring is usually less effective or same as before in work efficiency. As we see, the representative bureaucracy may go similar if the black officer may do better for the claims from the same race group. And native Americans may do better for the affairs of Indian tribes. I think that a kind of specialization on the work frame is never nugatory that the leaders need to be scrupulous. It also seems that the communication within DDS perhaps failed to bring that mishap. I suppose that democracy and diversity are points of virtue and also can be exploited to the interests of work effectiveness. If the former director is willing to listen and communicate, how that outcome could be? Thank you for your useful post.

From John: There are many challenges to democracy in today's world. The biggest challenge is apathy. "What is the purpose of government?" I have asked this question of many politicians and potential politicians, as well as high school students, with their most common answer "to provide us with..." many have added "with our rights". My next question to them is; have you ever read the Declaration of Independence? How many people actually know the first sentence in the second paragraph of the Declaration of Independence? "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.--That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed, --That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government..." I find very few people have any idea this sentence even exists. The vast amount of people that do know and understand this sentence, are in the Tea Party movement. My next follow-up question is; "where in the U.S. Constitution does the government get it just powers?" The most common answer is "all through it." When these people are elected to an office where leadership is expected, they swear an oath of affirmation "to support this Constitution" Article VI paragraph 3. If the people who want to lead this country are so apathetic about the purpose of government, and how our government is set up, that they will not take the time to read two short documents that are the foundation of our government, how can they possibly support something they know nothing about? I think a more truthful answer from many representatives in Washington would be "who cares". The problem is that when leadership is apathetic then gravity takes over

and the apathy flows down to the other departments and to the public schools where apathy lingers and breeds more apathy. By default, our current policy objective is to promote apathy. By promoting apathy, we promote the abandonment of our constitution. Judge Andrew Napolitano interviewed Congressman Clyburn in September 2009, where he said that most of what we do is not constitutional. He believes that the U.S. Constitution is a living breathing thing that we can ignore at will. If this is the case, why do all of our military recruits swear and oath to defend it? If this is true, why do all our police recruits swear and oath to defend it? If this is true, why do the members of congress swear to defend it? If this is true, why does the president swear to defend it from all enemies foreign and domestic? If this is true, why don't we just burn it as trash? If this is true, why don't we just allow the drug cartels of Mexico in to run our country? If a law such as Article VI is not enforced then it is not a law. Should we draft and send to the several states, a 28th amendment that does away with Article VI paragraph 2? That way the 535 on the hill, and the one in the oval office will not be violating their oath of office. Democracy allows us to choose not to see evil, or choose not to hear evil; unfortunately, it allows us to speak evil.

From Kiyong: Hi. John. You pointed correctly at that to be itched and dug out for the dormant leaders and officers. I agree that the constitution is, in much extent, just a formal document that many democratic issues drift away seriously unconcerned. Their oath of affirmation is just a pomp or brief ceremonial moment. We were learnt that the US constitution was created in less a democratic ethos. rather, by prudence, patience, or plutocracy and so kind. They were considered to be persons who were genuinely responsible to address the turmoil.

We now live other times. How much do you see it the same? Your stance seems as much on the same between the 18th and present times. I just go same as you except for some aspect. If a lobbying or policy network comes into mind, it is substantially similar that the people act in the best interests of him or his faction. However, education and well informative society seems to make it distinguishable, though less dominant due to its nature. Now the people about the concern or vigil, who were in some class of society, work less in their self interest, but tend to uphold some public ideal or democratic virtue. How do you assess the Vietnam war vigil of college students in 1970's and Martin Luther King's civil leadership? In the topic between the public policy and democratic challenge, both incidents may not be seen as an accolade. The police and government officers would probably see them challenging. Then, can you see that they are ignorant of constitutional command? Although we opted for the least alternative, namely democracy, for various reasons, a practically best solution might be in the leadership in action or scholar practitioner concept as in the 18th America.

From Sergio Montolio: Challenges posed by Democracy- I view democracy as the standards in which a government makes the people believe that they have specific rights, but rights that can only be used when it does not contradict government policies. However, the political issue I have selected is the Immigration Reform. As we all know Immigration Reform is a never ending battle that has not been approved due to the fact that too many it seems a threat. An immigration reform will create more opportunities for immigrants, education, jobs, governmental positions and many more opportunities, which in fact is a threat to a democratic government. Immigration reform will give the people more authority to stand for what they believe in and fight for their American dream. Democracy poses a challenge to immigration reform because people are fighting for their written rights to citizenship, equality, and free speech and press. Why do people have to fight for rights that are written and sworn in as part of the constitution? And why if in a democratic government, "the government is by the people, exercised either directly or through elected representative, and the common people, considered as the primary source of political power" (the free dictionary, 2013); then why do they have to fight the government representatives elected by the person to approve something that was already written in the Constitution many years ago? If democracy did not pose a challenge to the Immigration Reform, I would have had been approved the first time it was introduced. Yet, the challenge continues because too many organizations that employed illegal immigrant and that are exploiting them for below wage salary are against the reform because if approved it means legalization, which is equal to paying more money, insurance for employees etc.

From Kiyong: Mr. Sergio. Your point is authentic that the democracy is now critiqued. The contemporary democracy is really a kind of trauma if we stand in some aspect. If we, the common people, are proud to be equivalent with King or Catholic head, we may like to choose democracy as an ideal. If all points about the three dispense away, we may get fattened with the world map only in hands. The politics and democracy seem to allow an avenue to argue, and persuasion, approval, recognition, and many ways to settlement about the meanings of our lives. Democracy seems good if we dislike a decadence and worse ethics of governing group. If not disclosed in any convincing evidence, an incident of Korean ranked official, accused from sexual abuse

during the state visit of Lady President Park, allows us a working democracy. Such an incident might get not protested if we were to live in earlier times. Is it a decadence or sheer preserve of privacy? Or an incident in view of the ethics of government? Democracy seems to pose a challenge in its procrastination of process and in some cases, imbalance of power bargaining as in the immigration reform. Paradoxically, the plutocrats have done greater that democracy seems to find a vast of context nowadays in merely a monitoring or less minded election turned in years. Also one tendency is that the people can be led so easily to some of fancy stories about the privacy of leaders or public figures, sports and other entertainments. That seems to evidence a larger of public welfare effect, but I suppose that the policy students need to cast on the streams of economic class who are a real engine to wheel forward the society. How does it come the immigrant reform in this purview?

From Kyle: There are many public policies on the public agenda today from Gun laws to Same-Sex Marriage to Immigration but there is one policy that hits close to home and that is the 2012 Farm Bill. The reason it hits home for me is I work for USDA, Farm Service Agency and this Farm Bill provides my agency with programs, policies, and funding to help support agriculture and farmers in the United States. Our programs helps ensure that farming stays strong and provides benefits to Rural America. With the fiscal cliff, sequestration, and budget cuts, Congress has been unable to complete a new Farm Bill that will help run our agency along with other agencies for the next 5 years. This Farm Bill not only helps farmers and ranchers but it provides funding to the Food Stamp program, provides funds to Health Inspectors, and also provides funding and programs for housing for low-income families. This is a public policy that has been on the public agenda for the last few years and has bounced from the House to the Senate with no one able to compromise on a plan that will benefit every citizen in one way or another. Democracy poses a huge challenge for the creation and implementation of the Farm Bill. First we are seeing our Democratic government not being able to even sit at a round table to discuss the Farm Bill and come up with solutions, programs, and public policies that can put a bill together to support many different programs for the next 5 years. The division between the two parties as we have seen on most public policy agenda items is crippling the Farm Bill as well as the agencies that this Farm Bill supports. An example of this, with FSA, is that we have stopped making Farm payments, county offices are closing, and we are starting to see furloughs occur because of lack of funding because we are on a continuing resolution from the 2008 Farm Bill. This has affected the way our agency conducts business but also our ability to help farmers. Another way we are seeing democracy pose a challenge is that many people in the United States do not want to see bills like this at the top of the government list because they want other public policy measures done first like gun control and same sex marriage. I feel like our democracy seems to only care about issues that are right in front of them instead of the issues that help keep this country strong and provide food and services for all citizens. I think democracy as a whole frowns on policies like the Farm Bill because I do not think they understand it and they do not think it will benefit them so why our democracy and government wasting their time. Elected officials are listening to their constituents and not bringing up this issue because they want to make sure they are on good grounds for their next election. To me, democracy is something that we all take for granted and believe it will work all the time but in actuality, it does work but not when we need it to work. With the example of my public policy agenda, this new Farm Bill should have been in place when we started our fiscal year on October 1, 2012 and we sit here seven months later barely being able to help our rural America because our democracy is dictating on what policies need to be addressed now and which ones can be done later.

From Kiyoungh: Hi. Kyle. I respect your serious pursuit to serve the interests of farmers. I suppose that you also are exposed to the conditions and terms guided by WTO laws. Nowadays democracy factors the domestic policy makers in multiple ways. Not only the constituents or group of citizens but also some interplay with the international organization is required. Corporations and businesses are schemed in the global market on the free competition ideas as we know. You may know that agriculture also became a subject of WTO laws, hence we have the Agreement of Agriculture (AA) governing the member states of WTO. How much do you agree on this free market arrangement. United States actually is one of biggest agricultural economies in the world. So that you probably would favor the free trade regime. That was also the kind of understanding in the FTA between US and Korea in 2010. In the free market rule, subsidies from the government is not favored or subject to the programmatic reduction of existing subsidies for their national farmers or agricultural businesses. For example, you may face with the problem how the scope of governmental subsidies could survive the WTO laws. Korea also maintained heavy institutions for the national agriculture which is also pivotal in serving a national food security. How do you perceive between the free market proposition and orthodox nature of farming or agriculture? Also how do you assess the quality of democracy if we expand our understanding into the international plane beyond the national concept of democracy?

From Sharon: Kiyoungh. There seems to be much talk about the use of technology to garner the opinion of people regarding public policy, or potential public policy, but little is said about how governments might assure that the opinions expressed really belong to individuals that the government serves--after all, the internet is available all over the world. Also, how can governments assure that in the flood of opinions received from the internet, that each represents a different person? Someone could respond more than once in an effort to make their opinion seem stronger.

From Kiyoungh: Hi. Sharon. Your point is quite right, and should be one aspect to be concerned. The nature of communication in the cyber space has limits. First, the new ethics course in general education seems necessary, which should be tantamount to the ethics in the real space. A new version likened to compare with the ethics' discourse of Aristotle needs to flourish concerning the internet and cyber space. Second, as in your suggestion, the criminal policy needs to follow up to address the cyber falsification or misrepresentation. Third, the policy administrators need to have an awareness to evaluate squarely the use of cyber space in various context. The cost-benefit analysis, economic impact, layoffs and new hires, democratic legitimacy, and even the anthropological views, which would, of course, be incurred by the e-transformation of governance, may pertain. Along with the area of public policies, say, e-vote, on-line banking, on-line renewal of license, and others involving the legal effect, we expect a hard measure to ensure the ingenuity of action or communication. Such tools for the confidentiality and genuity could bring a more credence of public, and thus propriety of cyber space for any public purpose.

● Rosemary Moody  
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Public Policy and social change is like apples to oranges analogy. The public policy aspects maybe are great for creating the optic of "greater good" for the people it services, however the policy will have directives that will not allow the actual work to be completed in a fashionable timeframe. This will then generate a new problem with the end results. Policymakers think short-term instead of concentrating on the long-term results. Individuals are not going to wait on a promise of change; they want to see the change. Social change can enhance our communities into health behavior patterns, which is ideally what is being done by advocates in various areas such as healthcare. The visibility of a new healthcare plan initiative has been introduced, like or not many American's are on board with the new changes and they are starting to embrace them. Social change impedes upon our wellbeing as people. Social change is good for democratic governance as a society.

From Kiyoungh: Hi. Rosemary. You are right that public policy is related with the social change, and serves the democratic governance. Sharon also complemented that the Supreme Court performs to address a sensitive policy issue, like the segregation or desegregation and equality or many others. I often perceive that the officials of administrative branch are more agile to respond the needs of public, and then the judicial branch in later context, but a little more concrete, but steady or stubborn in worse, on a stare decisis rule. They may be passive and conservative in some areas of public issue that could evoke a social controversy. This may revert us to the question of democratic governance. Social change agents would likely be heeded of the exact nature of public issues in the course of mobilizing their commission. Thank you for sharing.

From Bronia: Public policy is the way the public is informed about the strengths and challenges as well as rights and wrongs when discussing a specific issue. Public policy can be utilized to update and revise previous positions on an issue. As the world and its perspective changes due to; weather, population, socioeconomic status, etc...public policy will take these additional items into consideration when making decisions on operating procedures. I think that public policy should be utilized in two ways. It should be utilized so that the citizen input is included and it should also be utilized to denote consistency. I know that in many instances states, territories, and tribal nations can amend and/or revise something for what is in specific best interests. This is ok, however I believe that there should be some sort of national standard.

From Kiyoungh: Hi. Bronia. Your view seems to hit. How to properly circumscribe the policy community in any common standard perhaps would be usual. For example, a medical mal-practice may be adjudged in separate barometers across the jurisdictions. That would be one point that the governments need to share and communicate. There are more chances and perhaps easiness if the Uniform Commercial Code was adopted by almost all the jurisdictions of US. However, what chances are if they are criminal or contract law issues in the movement of uniform national laws? So the nature of policy issues also contributes to a diverse response. Your suggestion is plausible, and a continued dialogue as well as on-going vigor for the social change seems to effect.



